

**NOTICE PUBLICATION REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91)

(See instructions on reverse)

For use by Secretary of State only

**AGENCY**

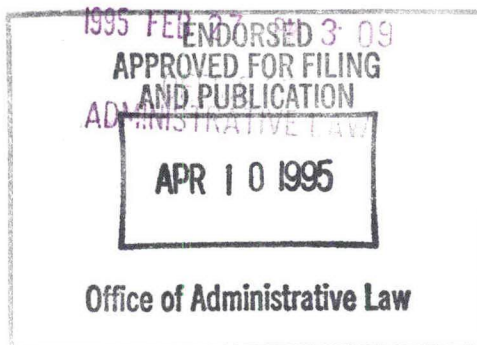
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (If any)

RDB#0394-04

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		95-0227-03C	94-1021-06E	

For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

**FILED**In the office of the Secretary of State  
of the State of California**APR 10 1995**At 3:59 O'clock P.M.  
BILL JONES, Secretary of StateBy *Robertta Connel*  
Deputy Secretary of State**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Adoption Assistance Program Regulations		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-139-2	PUBLICATION DATE 9-30-94	

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)**1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)** (Including title 26, if toxics-related)

TITLE(S) 22/MPP	ADOPT (See attached)
<b>SECTIONS AFFECTED</b>	AMEND (See attached)
	REPEAL (See attached)

**2. TYPE OF FILING**

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

**3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE** (Cal. Code Regs. title 1, §§ 44 and 45)

January 27, 1995 through February 11, 1995

**4. EFFECTIVE DATE OF REGULATORY CHANGES** (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) \_\_\_\_\_

**5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

**6. CONTACT PERSON**

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, DIRECTOR

DATE

FEB 27 1995

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

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OAL  
RDB #0394-04

Adopt: Title 22, Sections 35325 (New), 35333 (New), and  
35344 and MPP 45-808.

Amend: Title 22, Sections 35000, 35001, 35009, 35013,  
35047, 35051, 35171, 35179, 35207, 35209, 35275,  
35283, 35326, 35331, 35337, 35339, 35341, 35343,  
35345, 35347, 35351, 35352, 35352.1, 35352.2,  
35352.3, MPP 45-801, MPP 45-802, MPP 45-804, MPP  
45-805, MPP 45-806, and 45-807.

Repeal: Tit. 22, Existing Sections 35333 and 35335

*per agency  
Dmc  
4-10-95*

Amend Section 35001(a)(1) to read:

35000        DEFINITIONS

35000

- (a) (1) "AAP-Eligible Child" means a child who meets the eligibility criteria defined in Welfare and Institutions Code Section 16120.
- (2) (Continued)
- (3) (Continued)
- (4) "Adoption Assistance Program (AAP)" means a program of financial and/or medical assistance to facilitate the adoption of children who otherwise would remain in long-term foster care.
- (5) through (11) (Continued)
- (b) through (d)
- (e) (Reserved)
- (f) (1) through (9) (Continued)
- (g) through (n) (Continued)
- (o) Reserved
- (p) (Continued)
- (q) Reserved
- (r) (1) through (5) (Continued)
- (6) "Responsible Public Agency" means the department or licensed public adoption agency responsible for determining Adoption Assistance Program eligibility and initial and subsequent payment amounts as specified in Section 35325(c).
- (7) (Continued)
- (s) (1) through (7) (Continued)
- (8) "Statewide Median Income" means the California median income as projected and adjusted for family size by the United States Department of Housing and Urban Development (HUD).
- (t) Reserved
- (u) Reserved



(v) Reserved

(w) (1) (Continued)

(x) Reserved

(y) Reserved

(z) Reserved

Authority Cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8608, and 8901, Family Code. *8621 one*

Reference: Sections 10800, 16000, 16100, 16115, 16118, 16119, 16120, 16120.1 and 16121, Welfare and Institutions Code; Sections 3014, 6500, 7002, 7601, 7602, 7610, 7611, 7612, 7660, 7661, 7662, 7663, 7664, 7665, 7666, 7669, 7802, 7807, 7808, 7820, 7821, 7822, 7823, 7824, 7825, 7826, 7827, 7828, 7829, 7890, 7892, 7893, 8503, 8506, 8509, 8512, 8515, 8518, 8521, 8524, 8527, 8530, 8533, 8539, 8542, 8545, 8600, 8706, 8801(b), 8817, 8909, and 9202, Family Code; Section 1502, Health and Safety Code; Section 13290, Government Code; 8 USC 1101(b)(1)(F); 25 USC 1901, 1903(2), (3), (4), (5), (6), (8), (9), (11), and (12); 42 USC 673 and 675; Section 11105(a)(2), Penal Code; and 28 CFR Section 16.31; and 45 CFR 1356.41(i).

Amend Section 35001 to read:

35001        DEFINITIONS - FORMS

35001

- (a) (1) "AAP 1 (Bi)" (7/94) means the form entitled, "Request for Adoption Assistance."
- (2) "AAP 2" (~~8/94~~ 2/95) means the form entitled, "Payment Instructions - Adoption Assistance Program."
- (3) "AAP 3" (7/94) means the form entitled, "Recertification Information - Adoption Assistance Program."
- (4) "AAP 4" (~~9/94~~ 2/95) means the form entitled, "Eligibility Certification - Adoption Assistance Program." *per agency one 4-10-95*
- (5) (Continued)
- (6) (Continued)
- (7) (Continued)
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- (46) (Continued)
- (47) (Continued)
- (48) through (78) (Continued)

(79) "AD 4320 ~~81~~" (7/942/95) means the form entitled, "Adoption Assistance Agreement."

(80) (Continued)

(b)(1) (Continued)

(c) Reserved

(d) (1) DHS 6155 (10/90) means the form entitled "Health Insurance Questionnaire."

(e) Reserved

(f) (1) through (2) Reserved

(3) "(FC 3)" (2/92) means the form entitled, "Determination of Federal AFDC-FC Eligibility."

(4) through (7) Reserved

(8) "FC 8" (6/94) means the form entitled, "Federal Eligibility Certification for Adoption Assistance Program."

(9) ~~"FC 9" (8/94) means the form entitled, "Federal Eligibility Information for Adoption Assistance Program."~~ Reserved

(10) "FC 10" (12/88) means the form entitled, "Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program."

(g) Reserved

(h) Reserved

(i) (Continued)

(j) through (z) Reserved

#### HANDBOOK BEGINS HERE

AD, AAP, and FC forms are available through the Department's Forms Warehouse at the following address:

California Department of Social Services Warehouse  
Publications Unit  
6150 27th Street - P.O. Box 22429  
Sacramento, CA 95822-3799



DHS forms are available through Department of Health Services Warehouse at the following address:

Department of Health Services, Warehouse  
1037 North Market, Suite 9  
Sacramento, CA 95834

For forms in languages other than English, contact the Adoptions Branch's Forms Coordinator at (916) 323-0469.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, 16118, and 16120 Welfare and Institutions Code; and Section 8621, Family Code.

Reference: Sections 16105, 16118, and 16120.05, Welfare and Institutions Code; Sections 8500 et seq., 8600 et seq., 8700 et seq., 8800 et seq., 8900 et seq., 9100 et seq., and 9200 et seq., Family Code.

Amend Section 35009(a)(1) to read:

35009        DISSEMINATION OF INFORMATION REGARDING  
             AAP-ELIGIBLE CHILDREN, AAP, AND  
             REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES

35009

(a) The agency shall inform the public regarding:

- (1) The need for adoptive parents for AAP-eligible children.  
(Continued)

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Sections 8708, 8709, 8710, and 8711 Family Code; Sections 16115.5 16119 and 16120, Welfare and Institutions Code; and 45 CFR 1356.40 and 45 CFR 1356.41(e)(1).

Amend Sections 35013(a)(1), (a)(2), (a)(3), (a)(4) and (a)(5) to read:

35013            PROVISION OF INFORMATION REGARDING THE  
ADOPTION OF AAP-ELIGIBLE CHILDREN

35013

(a) The agency shall inform applicants regarding the availability of:

- (1) AAP-eligible children in need of adoptive parents;
- (2) Supportive services to assist the adoptive parent in meeting the AAP-eligible child's needs;
- (3) AAP payments for AAP-eligible children;
  - (A) The agency shall inform the applicant for the adoption of the AAP-eligible child that the ability to adopt is not limited by the applicant's income or lack of income and that there is no test of the applicant's financial means as a prerequisite for adoption.
  - (B) The agency shall inform the applicant for the adoption of the AAP-eligible child that availability of AAP support for group home care and residential treatment is limited.
- (4) Medi-Cal for AAP-eligible children; and
- (5) Reimbursement for nonrecurring adoption expenses incurred in the adoption of an AAP-eligible child.
  - (A) The agency shall inform the applicant for the adoption of an AAP-eligible child that the ability to receive this reimbursement is not limited by the applicant's income and that there is no test of the applicant's financial means as a prerequisite for this reimbursement.

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 16115.5, 16119, 16120, and 16120.1, Welfare and Institutions Code; 45 CFR 1356.40; and 45 CFR 1356.41(e)(1).





- (G) Documentation of action taken in another state to free the child.
- (H) Form AD 4333 "Acknowledgment of and Confirmation of Receipt ~~the~~  
~~Filing of Adoption Relinquishment + Notice of Actions in Lieu of~~  
~~Relinquishment + Waiver of Report of State Department of Social~~  
~~Services' Documents.~~
- (I) Form AD 4311 "Information on American Indian Child" and copies  
of any responses from Bureau of Indian Affairs (BIA) or the  
child's tribe.
- (J) Forms AD 165 and 166 "Consent to Adoption".
- (K) Form ICPC 100A, if applicable.
- (L) Form ICPC 100B, if applicable.
- (11) Copies of requests for medical background information under <sup>family</sup> Code ~~Code~~ Sections 8706, 8817, or 8909. *dm*

HANDBOOK BEGINS HERE

- (A) Family Code Section 8706 is located at Section 35209(a)(1).
- (B) Family Code Section 8817 is located at Section 35093(a)(2)(A)1..
- (C) Family Code Section 8909 is located at Section 35275(a)(1).

HANDBOOK ENDS HERE

- (12) Copies of medical background information transmitted to an adoptee and  
adoptive parent at time of placement under Family Code Sections 8706,  
8817, 8909, and 9202.

HANDBOOK BEGINS HERE

- (A) Family Code Section 8706 is located at Section 35209(a)(1).
- (B) Family Code Section 8817 is located at Section 35093(a)(2)(A)1..
- (C) Family Code Section 8909 is located at Section 35275(a)(1).
- (D) Family Code Section 9202 is located at Section 35051(a)(1).

HANDBOOK ENDS HERE

- (13) Copies of requests for identifying information under Family Code  
Section 9203.

HANDBOOK BEGINS HERE

- (A) The pertinent part of Family Code Section 9203 is located at  
Section 35053(b)(1).

HANDBOOK ENDS HERE

- (14) Copies of identifying information provided under Family Code Section 9203.
- (15) Copies of waivers of the right to confidentiality of adoption case records under Family Code Section 9204.

HANDBOOK BEGINS HERE

- (A) The pertinent part of Family Code Section 9204 is located at Section 35049(b)(3)(A).

HANDBOOK ENDS HERE

- (16) (Continued)
- (17) Documentation of any attempt to place the child in accordance with the ICWA.
- (18) (Continued)
- (19) A copy of the Interstate Compact on the Placement of Children (ICPC) acknowledgment/waiver.
- (20) A copy of the receipt signed by the prospective adoptive parent acknowledging receipt of initial and updated medical background information on the child and birth parents.
- (21) Copies of letters of reference regarding the suitability of applicants to be adoptive parents.
  - (A) (Continued)
- (22) The fingerprint card(s) (BID-7) returned from the Department of Justice (DOJ), full state criminal record, if any, and the FBI criminal record, if any.
- (23) Justification for any deferment, waiver, or reduction in the DOJ fee charged for checking or obtaining the criminal record of the applicant or petitioner.

HANDBOOK BEGINS HERE

- (A) Family Code Sections 8712, 8810, and 8908 provide that the adoption agency or the Department may defer, waive, or reduce the fee when its payment would cause economic hardship to the adoptive parents detrimental to the welfare of the adopted child, when the child has been in foster care with adoptive parents for at least one year, or if necessary for the placement of a special needs child.

HANDBOOK ENDS HERE

- (24) Documentation indicating that a diligent search was made to meet the requirements of Family Code Section 8710(b).

HANDBOOK BEGINS HERE

- (A) Family Code Section 8710(b) reads as follows:

"(b) Every public and private adoption agency shall maintain records for the placement of each child to show that a diligent search has been conducted for families meeting the criteria of Section 8708, and in accordance with diligent search rules which shall be adopted by the department. In conducting a diligent search, each agency shall use all appropriate resources, as necessary, in a directed effort to recruit a family meeting the placement preference criteria through (1) the use of all appropriate intra-agency and interagency, state, regional, and national exchanges and listing books, (2) child-specific recruitment in electronic and printed media coverage, and (3) the use of agency contacts with parent groups to advocate for specific waiting children."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 8710(a), Family Code.

Reference: Sections 1501, 1502, 1503, and 1508, Health and Safety Code; Sections 89179 and 89182, Title 22, California Code of Regulations; and Sections 8706, 8710, 8712, 8811, 8817, 8908, 8909, 9202, 9203, and 9204, Family Code.

- (a) The agency shall provide a photocopy of the adoptee's medical report required by Family Code Section 9202 and all documents related to the medical report upon the written request of an adoptee who has attained the age of 18, an adoptee under the age of 18 who presents a certified copy of his or her marriage certificate, or an adoptive parent of an adoptee under the age of 18.

## HANDBOOK BEGINS HERE

- (1) Family Code Section 9202 reads as follows:

"(a) Notwithstanding any other law, the department or licensed adoption agency that made a medical report required by Sections 8706, 8817, or 8909 shall provide a copy of the medical report, in the manner the department prescribes by regulation, to any of the following persons upon the person's request:

"(1) A person who has been adopted pursuant to this part and who has attained the age of 18 years or who presents a certified copy of the person's marriage certificate.

"(2) The adoptive parent of a person under the age of 18 years who has been adopted pursuant to this part.

"(b) A person who is denied access to a medical report pursuant to regulations adopted pursuant to this section may petition the court for review of the reasonableness of the department's or licensed adoption agency's decision.

"(c) The names and addresses of any persons contained in the report shall be removed unless the person requesting the report has previously received the information pursuant to subdivision (a) of Section 9203."

## HANDBOOK ENDS HERE

- (2) The agency shall delete from the medical report and photocopies of the relevant documents the names and addresses of all individuals, including the adoptee and the source, prior to releasing photocopies of the report, unless the person requesting the report has previously received the information pursuant to Family Code Section 9203.

## HANDBOOK BEGINS HERE

(A) (Continued)

(B) The content of Family Code Section 9203, in part, is located at Section 35053(b)(1).

## HANDBOOK ENDS HERE



(3) (Continued)

(b) (Continued)

Authority Cited: Sections 10553, 10554, and 10850(d), Welfare and Institutions Code; and Section 9202(a), Family Code.

Reference: Sections 9202 and 9203, Family Code; and 25 U.S.C. 1901, et seq.

Amend Section 35171(a)(6) to read:

35171        CONTENT OF WRITTEN ASSESSMENT OF THE CHILD

35171

(a)    (Reserved)

HANDBOOK BEGINS HERE

(a)    (Continued)

HANDBOOK ENDS HERE

(b)    The agency shall assess each child accepted for adoption services. The assessment shall be in writing and shall include but not be limited to:

(1) through (5) (Continued)

(6)    Designation of the child as AAP-eligible, when applicable, and the reasons for such a designation (Continued)

Authority Cited:    Sections 10553 and 10554, Welfare and Institutions Code Section 1530, Health and Safety Code; and Section 8608, Family Code.

Reference:        Sections 8608, 8706, 8715, and 9100, Family Code; and 25 U.S.C. 1901 et seq.

Amend Section 35179(a)(2)(A) to read:

35179 INFORMATION ON AAP AND FOSTER CARE BENEFITS

35179

(a) (Continued)

HANDBOOK BEGINS HERE

- (1) Welfare and Institutions Code Section 16119 states, in pertinent part:

"At the time application for adoption of a child who is potentially eligible for Adoption Assistance Program benefits is made, the department or the licensed adoption agency, whichever is appropriate, shall provide the prospective adoptive family with information, in writing, on the availability of Adoption Assistance Program benefits, with an explanation of the difference between these benefits and foster care payments."

HANDBOOK ENDS HERE

- (2) The following information shall be included in this explanation:

- (A) Adoption assistance, including financial assistance and Medi-Cal benefits, is available to remove or reduce economic barriers preventing families from adopting children who otherwise would remain in long-term foster care.
- (B) There are significant differences between adoption assistance and foster care as shown in the following chart:

Foster Care

Payments based on child's age and, in some cases, disability.

Family resources and circumstances not considered in determining payment amount.

Adoption Assistance

Payment based on child's needs and family's circumstances.

The maximum payment is the state-approved foster care payment the child would have received if not adopted.

Family resources and circumstances are considered in determining payment amount.

Health care provided  
by Medi-Cal.

Child eligible for  
Medi-Cal although  
family's health  
insurance must be  
used first.

If the child would  
require group home  
or residential treat-  
ment placement, it  
would be available  
for as long as required.

If the child would  
require group home  
or residential treatment  
placement, it would be  
available only for a  
limited period of time  
and only if the goal  
is reunification of the  
child with the adoptive  
family.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 16119 and 16121, Welfare and Institutions Code.



Amend Section 35207 to read:

35207        ADOPTIVE PLACEMENT AGREEMENT

35207

(a)    (Reserved)

HANDBOOK BEGINS HERE

(a)    (Continued)

HANDBOOK ENDS HERE

(b)    (Continued)

(1)    (Continued)

(A)    The rights and responsibilities of the agency and the prospective adoptive parents.

1.     The child's legal status, including court dependency and any terms and/or conditions of the adoptive placement of a child not yet freed for adoption.

(B)    The agency's responsibility to retain custody of the child and to supervise the adoptive placement until the granting of the final decree of adoption in accordance with Family Code Section 8704 and Welfare and Institutions Code Section 366.26(i).

HANDBOOK BEGINS HERE

1.     Family Code Section 8704 reads, in pertinent part, as follows:

"(a) The department or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights is responsible for the care of the child, and is entitled to the exclusive custody and control of the child until an order of adoption is granted. Any placement for temporary care, or for adoption made by the department or a licensed adoption agency may be terminated in its discretion at any time before the granting of an order of adoption. In the event of termination of any placement for temporary care or for adoption, the child shall be returned promptly to the physical custody of the department or licensed adoption agency.

"(b) No petition may be filed to adopt a child relinquished to the department or a licensed adoption agency or a child declared free from the custody and control of either or both birth parents and referred to the department or a licensed adoption agency for adoptive placement, except by the prospective adoptive parents

with whom the child has been placed for adoption by the department or licensed adoption agency. After the adoption petition has been filed, the department or licensed adoption agency may remove the child from the prospective adoptive parents only with the approval of the court, upon motion by the department or licensed adoption agency after notice to the prospective adoptive parents, supported by an affidavit or affidavits stating the grounds on which removal is sought. If the department or licensed adoption agency refuses to consent to the adoption of a child by the person or persons with whom the department or licensed adoption agency placed the child for adoption, the court may nevertheless order the adoption if it finds that the refusal to consent is not in the child's best interest."

2. (Continued)

HANDBOOK ENDS HERE

- (C) The agency's responsibility to provide the prospective adoptive parents with a report on the child's medical background.
- (D) The availability of AAP to remove or reduce economic barriers to the placement of certain children who otherwise would remain in long-term foster care.
- (E) The existence of or due to family history, the potential for any physical, mental, emotional, or medical handicap or condition of the child which may manifest itself after completion of the adoption.
- (F) The availability of California Children's Services and the fact that assistance under this program will terminate if the adoptive family moves out of California and that the adoptive family may be eligible for a similar program in the other state.
- (G) The agency's grievance review procedure.
- (H) The prospective adoptive parent's responsibility to place the child under the care of a licensed physician for the routine health care of the child.
- (I) The prospective adoptive parent's responsibility to inform the agency of any serious injury to or illness of the child and to obtain prior written consent for all nonemergency surgical and medical treatment of the child.
- (J) The prospective adoptive parent's responsibility to inform the agency regarding any changes in the composition of the adoptive family or the family's place of residence.
- (K) The agency's authority to terminate the adoptive placement and to remove the child from the home of the prospective adoptive parents at the agency's discretion unless a petition for adoption has been filed.

- (L) The agency's agreement to give seven days written notice to the prospective adoptive parents of its intention to terminate the adoptive placement and remove the child unless the agency believes the child to be in imminent danger in which case no prior notice shall be required.
- (M) The prospective adoptive parent's right to terminate the adoptive placement and return the child to the agency at any time prior to the granting of a final decree of adoption.
- (N) The provisions of Family Code Section 8713 and Penal Code Section 280 regarding concealment of a child.

HANDBOOK BEGINS HERE

1. Family Code Section 8713 reads as follows:

"(a) In no event may a child who has been freed for adoption be removed from the county in which the child was placed, by any person who has not petitioned to adopt the child, without first obtaining the written consent of the department or licensed adoption agency responsible for the child.

"(b) During the pendency of an adoption proceeding:

"(1) The child proposed to be adopted may not be concealed within the county in which the adoption proceeding is pending.

"(2) The child may not be removed from the county in which the adoption proceeding is pending unless the petitioners or other interested persons first obtain permission for the removal from the court, after giving advance written notice of intent to obtain the court's permission to the department or licensed adoption agency responsible for the child. Upon proof of giving notice, permission may be granted by the court if, within a period of 15 days after the date of giving notice, no objections are filed with the court by the department or licensed adoption agency responsible for the child. If the department or licensed adoption agency files objections within the 15-day period, upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the party or parties requisition permission for the removal reasonable notice of the hearing by certified mail, return receipt requested, to the address of each as shown in the records of the adoption proceeding. Upon a finding that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to any limitations that appears to be in the child's best interest.

"(c) This section does not apply in any of the following situations:

"(1) Where the child is absent for a period of not more than 30 days from the county in which the adoption proceeding is pending, unless a notice of recommendation of denial of petition has been personally served on the petitioners or the court has issued an order prohibiting the child's removal from the county pending consideration of any of the following:

"(A) The suitability of the petitioners.

"(B) The care provided the child.

"(C) The availability of the legally required agency consents to the adoption.

"(2) Where the child has been returned to and remains in the custody and control of the child's birth parent or parents.

"(3) Where written consent for the removal of the child is obtained from the department or licensed adoption agency responsible for the child.

"(d) A violation of this section is a violation of Section 280 of the Penal Code.

"(e) Neither this section nor Section 280 of the Penal Code may be construed to render lawful any act that is unlawful under any other applicable law."

2. (Continued)

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(O) The disbursement report required by Family Code Section 8610.

HANDBOOK BEGINS HERE

1. The provisions of Family Code Section 8610 are located at Section 35085(b) (4) (A).

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Sections 8610, 8704, and 8713, Family Code; 25 U.S.C. 1901 et seq.; and Sections 16118 and 16119, Welfare and Institutions Code.

- (a) Prior to or at the time of adoptive placement of the child, the agency shall give a written medical report to the prospective adoptive parents on the medical background of the child and the child's birth parents in accordance with Family Code Section 8706 and obtain a written statement from the prospective adoptive parents acknowledging receipt of the report.

## HANDBOOK BEGINS HERE

- (1) Family Code Section 8706 reads as follows:

"(a) An agency may not place a child for adoption unless a written medical report on the child's medical background and if available, the medical background of the child's biological parents so far as ascertainable, has been submitted to the prospective adoptive parents and they have acknowledged in writing the receipt of the report.

"(b) The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history and family life."

- (2) (Continued)

## HANDBOOK ENDS HERE

- (3) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8608, Family Code.

Reference: Section 8706, Family Code.

- (a) The agency shall make a written assessment of the child as required by Family Code Section 8909.

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- (1) Family Code Section 8909(a) reads as follows:

"(a) An agency may not place a child for adoption unless a written report on the child's medical background and, if available, the medical background of the child's biological parents, so far as ascertainable, has been submitted to the prospective adoptive parents and they have acknowledged in writing the receipt of the report."

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8608 and 8901, Family Code.

Reference: Sections 8608, 8900, and 8909, Family Code.

(a) The assessment shall include:

(1) (Continued)

(A) through (D) (Continued)

(2) Identification of any atypical needs of the child that exist currently or will likely exist in the future.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8608 and 8901, Family Code.

Reference: Sections 8608, 8901, and 8909, Family Code.

Amend Section 35325 (b)(1); adopt new Section 35325(e)(3)(E), then renumber existing (e)(3)(E) to (e)(3)(F), and amend to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 1 AAP Case Initiation

35325 REQUEST FOR ADOPTION ASSISTANCE

or reduces

by agency  
Dmc  
4-10-95  
35325

- (a) The Adoption Assistance Program (AAP) removes barriers to the adoption of children who otherwise would remain in long-term foster care. The program provides necessary financial assistance to families who are willing and able to assume parental responsibility for children but are prevented from doing so by inadequate financial resources.
- (b) The agency shall provide any person who wants to apply for adoption assistance benefits with a Request for Adoption Assistance form (AAP 1).
  - (1) If the agency placing a child for adoption believes the child to be an AAP-eligible child, the agency shall offer the family an AAP 1.
- (c) The public agency responsible for determining AAP eligibility and initial and subsequent payments shall be:
  - (1) The Department or the licensed county adoption agency responsible for the child or,
  - (2) If the child is the responsibility of a licensed private adoption agency, the Department or licensed county adoption agency providing agency adoption services in the county that would provide adoption assistance benefits on behalf of the child.
    - (A) The licensed private adoption agency shall submit the AAP 1 and supporting documentation, including, but not limited to, the assessment of the child required by Section 35171 and a description of efforts to locate a non-subsidy home for the child, as the Department or licensed county adoption agency finds necessary in the particular case.

HANDBOOK BEGINS HERE

- (d) The county responsible for providing AAP financial aid and for determining the child's Federal eligibility status is specified by Welfare and Institutions Code Section 16118(e).
  - (1) Welfare and Institutions Code Section 16118(e), in pertinent part, states:



"For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Welfare and Institutions Code Sections 16120 and 16120.1 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Welfare and Institutions Code Section 11450 under the Aid to Families with Dependent Children program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."

HANDBOOK ENDS HERE

- (2) Once established, the county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.
- (e) The responsible public agency shall determine whether the child meets the eligibility requirements as specified in Section 35326.
  - (1) If an AAP 1 is submitted on behalf of a relinquished child who is not under the supervision of a county welfare department as the subject of a legal guardianship or a juvenile court dependency, the agency shall ask that entity responsible for providing services to children who are dependents of the court in the county that would be responsible for providing AAP benefits for a written determination as to whether the child would or would not have been at risk of dependency if the child had not been relinquished for adoption.
  - (2) If the responsible public agency determines that the child is not eligible for AAP benefits, the agency shall send the county responsible for payment a completed Payment Instructions - Adoption Assistance Program form (AAP 2) indicating that AAP eligibility is denied and the specific reason(s), including relevant regulatory or statutory citations, for the denial.
  - (3) If the responsible public agency determines that the child is eligible for AAP benefits, the agency shall:
    - (A) Submit the Federal Eligibility Certification for Adoption Assistance Program form (FC 8) to the county responsible for payment.
      - 1. The child's name prior to adoption (birth name) shall be used on the FC 8.
      - 2. The child's adoptive name shall not be used on the FC 8.
    - (B) Apply for Supplemental Security Income (SSI) benefits on the child's behalf prior to the completion of an AD 4320 if:

1. The FC 8 returned by the county responsible for payment indicates that the child is not eligible for the Federal AAP and;
  2. The child appears potentially eligible for the SSI program.
- (C) Determine the initial amount and duration of payment as specified in Section 35333.
1. If another agency assessed the prospective adoptive family as specified in Sections 35183 through 35195 and/or a private adoption agency is responsible for the child, these agencies shall be consulted before the amount and duration of payment is determined.
- (D) Complete an Adoption Assistance Agreement (AD 4320) as specified in Section 35337.
1. The AD 4320 shall be signed by the responsible public agency and the adopting parent(s) prior to the granting of the final decree of adoption.
  2. In adoptive placements which involve more than one agency, all agencies shall sign the initial AD 4320.
    - (i) Subsequent amendments to the AD 4320 may be signed by the responsible public agency alone.
  3. If AAP assistance is to be provided after the adoptive placement but prior to the final decree, the AD 4320 shall be signed prior to the granting of assistance.
  4. The child's adoptive name shall be used on the AD 4320.
- (E) If the agency and the adoptive family are unable to agree on AAP benefits, the agency will complete the AAP 2 as described in Section 35343(b)(4)(A).
- (F) Authorize payment as specified in Section 35341.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 16118, 16120, 16121, and 16121.5, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673 and 675.

Amend Section 35326 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 2 AAP Eligibility Requirements

35326 AAP ELIGIBILITY

35326

- (a) In order for a child for whom the initial Adoption Assistance Agreement is signed on or after October 1, 1992, to be eligible for Adoption Assistance Program (AAP) benefits, the conditions specified at Welfare and Institutions Code Section 16120, as amended by Assembly Bill (AB) 930 (Chapter 1087, Statutes of 1993), and 45 CFR 1356.40(d) shall be met.

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- (1) Welfare and Institutions Code Section 16120, in pertinent part, states:

"A child shall be eligible for Adoption Assistance Program benefits if all of the following conditions are met:

- (a) The child has at least one of the following characteristics that are barriers to his or her adoption:
- (1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of 3 years older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.
  - (2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability pursuant to subdivision (a) of Section 4512 including those determined to require out-of-home nonmedical care as defined in Welfare and Institutions Code Section 11464.
- (b) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

- (c) The child is the subject of an agency adoption as defined in Section 8506 of the Family Code and was any of the following:
    - (1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency,
    - (2) Relinquished for adoption to a licensed California private or public adoption agency, or the department, and would otherwise have been at risk of dependency as certified by the responsible public child welfare agency, or
    - (3) Committed to the department pursuant to Section 8805 or 8918 of the Family Code.
  - (d) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.
  - (e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.
  - (f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.
  - (g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits."
- (2) Title 45 CFR 1356.40 (c) states:
- "There must be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance payments."
- (A) This is not to imply that there is no consideration of the family's financial resources as set forth at Section 35333(a)(3) when determining the payment amount.

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- (b) ~~Eligibility of a child for whom an initial~~ Adoption Assistance Agreements ~~was~~ signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).

HANDBOOK BEGINS HERE

(1) Welfare and Institutions Code Section 16121.05(b) states:

"(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement."

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Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Sections 16118, 16119, 16120, and 16121.05, Welfare and Institutions Code; and 42 USC 671 and 673.

- (a) The determination of the child's eligibility for adoption assistance shall be documented in the case record on the Eligibility Certification - Adoption Assistance Program form (AAP 4).

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16118 and 16120, Welfare and Institutions Code and 42 USC Sections 671 and 673.

Amend Section 35333 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 3 AAP Payments

35333 DETERMINATION OF AMOUNT AND DURATION OF PAYMENT

35333

The responsible public agency shall negotiate the amount and duration of any Adoption Assistance Program (AAP) payment with the family. The negotiation shall be based on the documented needs of the child and the documented resources of the family and community available to meet those needs. In no case shall the AAP payment exceed the foster care payment which would have been paid on behalf of the child if the child had not been placed for adoption.

(a) Determination of the child's unmet needs

(1) The child's needs which would have been met by the foster care program had the child remained in foster care shall be determined by the agency after consultation with the adopting family.

(A) When only age appropriate basic care is needed, this need shall be documented by a brief statement to that effect.

(B) In those cases where the child may require care in addition to basic care, documentation of each need shall include:

1. A description of each need, including the underlying problem or condition and expected duration.

(i) The existence, nature, and duration of the identified need which would have been met by the foster care program and of the services which may meet the need shall be supported by a written diagnosis and prognosis by a licensed competent professional who is selected or approved by the agency and operating within the scope of his or her profession.

(ii) The adopting family shall be advised that the foster care program is not responsible for meeting a child's need for educational services.

2. A description of the services which may be able to meet the need including:

(i) The nature of the service.

(ii) The anticipated duration.

- (iii) The itemized expected cost.
- (iv) The service provider, if known.
- (2) The community resources available to meet the child's needs shall be identified by the agency.
  - (A) Among the resources to be considered are:
    - 1. California Children's Services
    - 2. Community Mental Health Services
    - 3. Regional Centers for the Developmentally Disabled
- (3) The family resources available to meet identified needs that community resources are not available to meet shall be determined by the agency.
  - (A) The family's annual income shall be compared with the statewide median income pursuant to Welfare and Institutions Code Section 16119.

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1. Welfare and Institutions Code Section 16119, in pertinent part, states:

"(c) ...The statewide median income data shall be used as a guideline to assist agencies and adoptive families in negotiating the amount of the Adoption Assistance Program benefit to be awarded to families to meet a child's needs for which other resources are unavailable. In all instances, actual living expenses, including any unusual expenses, shall be considered in evaluating the amount of benefit needed by the family to meet the child's needs...

"(d) In applying the statewide median income guideline, agencies shall be guided by the following assumptions:

"(1) Families with income below the statewide median income may qualify for an amount up to the state approved basic foster care rate plus any state approved specialized care increment for which the child would be eligible if in foster care.

"(2) Families with income above the statewide median income shall be considered to be able to meet the normal child rearing expenses encompassed in the state approved basic foster family home care rate, but may qualify to receive benefits in an amount up to the state approved specialized care increments the child would be eligible to receive in foster care."

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(B) To compare the family's annual income with the statewide median income, the agency shall:

1. Determine the number of family members, including the child(ren) being adopted, dependent upon the family income.
  - (i) The agency may exclude one or more family members from this determination if the excluded family member has income that is available only to meet the needs of that family member. In such cases, that family member's income shall not be included in determining family income.
  - (ii) In determining whether to exclude one or more family members from the determination, after considering the wishes of the family, the agency shall choose the option the agency determines best enables the family to meet the needs of the child.
2. Determine what the family's annual income from all sources would be if the child(ren) being adopted were to receive no AAP cash benefits.
  - (i) Income from all sources shall include adjustable gross income as reported on the family's federal income tax return and nontaxable income from all sources. Nontaxable income is counted only when the individual receiving that income is included in the determination pursuant to Section 35333(a)(3)(B)1.(i).

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Examples of non-taxable income are: AAP payments received on behalf of any previously adopted children, Aid for Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Social Security benefits, voluntary retirement contributions that reduce taxable income, and interest from tax exempt bonds.

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- (ii) Income from all sources shall not include AFDC-FC, AFDC-FG/U, or AAP payments received on behalf of the child(ren) being adopted.
    - (iii) The determination shall be supported by documentation, including a copy of the most recent filed Federal Income Tax return, provided by the family and written statements made under penalty of perjury by the family.

3. Compare the family annual income as determined pursuant to Section 35333(a)(3)(B)2. with the projected adjusted statewide median income developed by the United States Department of Housing and Urban Development (HUD).

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- (i) For equity, HUD adjusts median income for family size by subtracting ten percent for each person fewer than four and adding eight percent for each person greater than four. For example, the adjusted median income for a family of two is 80 percent of the four person median and the adjusted median income for a family of six is 116 percent of the four person median. This adjustment is shown on the following table:

Number of Persons in Family and Percentage Adjustments						
2	3	4	5	6	7	8
80%	90%	Base	108%	116%	124%	132%

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- (C) The agency's initial conclusion based on the comparison in Section 35333(a)(3)(B)3. shall be based on the assumption that a family whose annual income is above the adjusted statewide median income will be able to meet a child's basic care needs without assistance.
- (D) The initial conclusion may require modification after consideration of the family's actual living expenses including any documented, unusual expenditures necessary for the health, safety, care or education of any family member which are not reimbursed by other sources.

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1. Examples of such expenses include, but are not limited to:
- (i) Unusually high expenditures for housing, utilities, or transportation
- (ii) The cost of health, safety, education and above normal care for any family member, including other adopted children

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(4) The determination of the family's ability to meet the child's needs shall include a determination of the family's ability to meet the child's needs for medical care through health insurance or other means.

(A) If the family is able to meet the child's other needs, but is unable to meet the child's needs for health care, the child may receive Medi-Cal benefits while receiving a zero dollar AAP grant.

(B) If the child is determined to need Medi-Cal benefits and is enrolled in private health coverage (including CHAMPUS), the coverage must be reported to the Department of Health Services via the Health Insurance Questionnaire (DHS 6155).

(b) Determination of maximum AAP payment amount

(1) Step 1: Determine the state-approved foster care rate:

(A) If the child is living in the home of the adoptive family:

1. The agency shall deem that:

(i) The child would be living in a licensed foster family home if the child had not been placed for adoption and thus subject to the age-related, state-approved foster family home care rate, and

(ii) The child's needs for care would be the same as in the adoptive home.

2. If the child has no needs which would qualify the child for a specialized care increment in a foster family home, the maximum rate is the age-related, state-approved basic foster family home care rate.

3. If the child has needs which would qualify the child for a specialized care increment in a foster family home and the needed services are being provided by the adoptive family, the maximum rate is the age-related, state-approved basic foster family home care rate plus the applicable state approved specialized care increment.

(i) In making this determination, the agency shall use the specialized care rate structure of the county where the child was placed in foster care immediately prior to formal adoptive placement.

(ii) The agency may require that the family provide written documentation of the provision of the needed services.

4. If the child is a client of a California Regional Center for the Developmentally Disabled, the maximum rate shall be the foster family home rate formally determined for the child by the Regional Center using the facility rates established by the State Department of Developmental Services.
  5. If the child is placed for adoption in another state, the maximum rate shall be determined by the rate structure of the state in which the child was placed for foster care immediately prior to formal adoptive placement. Subsequent moves between states shall not effect this determination.
  6. If the child is temporarily living away from the adoptive home and the payment is not based on Sections 35333(b)(1)(B) or (C), the child shall be considered to be living in the adoptive home if the eligibility requirements of Section 35326 continue to be met.
  7. In no event may the maximum rate for a child living in an adoptive home be greater than the basic foster family home rate and any applicable specialized care increment.
    - (i) The maximum rate for a child living with an adoptive family shall not be based on a Foster Family Agency (FFA) treatment rate or on the payment made to a certified home by a FFA.
- (B) If the child is placed in out-of-home care, either on a voluntary basis or as a court dependent, for the treatment of a condition that the agency has determined existed prior to the adoptive placement, the agency shall:
1. Conclude that the child would have been placed in the same out-of-home care setting if the child had not been placed for adoption only if, after consultation with the adoptive family, the agency has determined that:
    - (i) Out-of-home placement is necessary to meet the child's needs,
    - (ii) The specific placement is able to appropriately meet the child's needs, and
    - (iii) The rate classification level of the facility is appropriate to the child's needs.
  2. If the determination has been made, the maximum rate is determined as follows:
    - (i) If the adoptive family is paying the cost of the placement directly, the maximum rate is the state-approved foster care rate for the facility.

- (ii) If another agency (e.g., Welfare Department, Probation Officer, Regional Center) is paying for the cost of the placement, the maximum rate is the adoptive family's share of cost.
- 3. The maximum rate for a child who is placed in a group home or residential care treatment facility is also governed by Welfare and Institutions Code Section 16121 when the child's initial Adoption Assistance Agreement was signed on or after October 1, 1992.

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(i) Welfare and Institutions Code Section 16121, in pertinent part, states:

"Payment may be made on behalf of an otherwise eligible child in a state-approved group home or residential care treatment facility if the department or county responsible for determining payment has confirmed that the placement is necessary for the temporary resolution of mental or emotional problems related to a condition that existed prior to the adoptive placement. Out-of-home placement shall be in accordance with the applicable provisions of Chapter 3 (commencing with Section 15000) of Division 2 of the Health and Safety Code and other applicable statutes and regulations governing eligibility for AFDC-FC payments or placements in in-state and out-of-state facilities. The designation of the placement facility shall be made after consultation with the family by the department or county welfare agency responsible for determining the Adoption Assistance Program eligibility and authorizing financial aid. Group home or residential placement shall only be made as part of a plan for return of the child to the adoptive family, that shall actively participate in the plan. Adoption Assistance Program benefits shall not be authorized for payment of an eligible child's group home or residential treatment facility placement that exceeds an 18-month cumulative period of time for a specific episode or condition justifying that placement"

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- 4. The child placed in out-of-home care may be placed with a foster family, a foster family agency, or a group home.
- (C) If the child is placed in out-of-home care as a ward of the court under Welfare and Institutions Code Sections 601 or 602:
  - 1. The maximum rate shall be the lesser of the share of cost actually paid by the family or the foster home rate determined in Section 35333(b)(1)(A).

(2) Step 2: Determine the child's income

- (A) The agency shall determine the amount of income received by or on behalf of the child which the child would have been eligible to receive if the child had not been placed for adoption.

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1. Examples of such income include:

- (i) Supplemental Security Income/State Supplemental Payments (SSI/SSP).
- (ii) Social Security benefits based on the earnings of a birth parent.
- (iii) Available income from an inheritance or a trust fund derived from assets of a birth parent or his or her relatives.

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(3) Step 3: Calculate maximum payment amount

- (A) The agency shall calculate the amount that would have been paid for foster care by subtracting the income identified in Section 35333(b)(2) from the state-approved foster care rate identified in Section 35333(b)(1). This process shall follow the procedures for computation of AFDC-FC as specified in MPP Section 45-302.431.

(c) Determination of Payment Amount

- (1) The payment amount shall be a negotiated amount between zero and the maximum payment amount as calculated in Section 35333(b)(3)(A).
- (2) If the agency and the adoptive family are unable to agree on AAP benefits, the agency shall complete the AAP 2 as described in Section 35343(b)(4)(A).

(d) Duration of payment authorization

- (1) The agency shall determine the duration of time between each authorization or reauthorization of AAP benefits and the subsequent reauthorization of AAP benefits. This payment authorization shall be in effect no longer than the shortest of the following periods of time:
  - (A) Two years,
  - (B) 18 months if the child is placed in out-of-home care and is receiving a grant greater than the basic care foster care grant,
  - (C) The expected duration of the services identified in Section 35333(a)(1)(B) if the child is receiving a grant based on a specialized care increment, or

- (D) A time period ending at the end of the month in which the child becomes 18 years of age or, if the agency has determined that the child has a mental or physical condition that warrants the continuation of assistance, 21 years of age.

Authority Cited: Sections 10553, 10554, 14023, and 16118, Welfare and Institutions Code.

Reference: Sections 15115.5, 16118, 16119, 16120, 16120.05, 16121, and 16121.05, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673 and 675.

Amend Section 35337 to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 4 Adoption Assistance Agreement

35337           CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT           35337

- (a) The Adoption Assistance Agreement form (AD 4320) shall contain the following:
- (1) The child's adoptive name and the name(s) of the adoptive parent(s).
  - (2) The amount of financial assistance.
    - (A) If the grant includes an amount to meet a need that is expected to change, the agreement shall state the amount to which the grant will be reduced when the need is not present.
  - (3) The duration of financial assistance.
  - (4) The specific needs and associated services for which payments are being authorized.
  - (5) That the existence of a characteristic that is a barrier to the child's adoption without subsidy has been confirmed by the agency.
  - (6) That, until termination of financial assistance, the adoptive parents shall notify the child's agency immediately regarding the following:
    - (A) Any substantial change in their financial circumstances.
    - (B) Any change in the child's needs.
    - (C) Any change in the provision of services for which payment is authorized.
    - (D) Any change in their place of residence.
    - (E) Any change in the child's residence.
    - (F) Any change in their responsibility for the support of the child or in their support of the child.
  - (7) That the agency and the adoptive parents shall reevaluate, and if appropriate, adjust the amount of assistance when any of the changes specified in Section 35337(a)(6) occur.



- (8) That a failure to report the changes specified in Sections 35337(a)(6)(A) through (F) may result in an overpayment which would be recovered by a direct charge or a reduction in current and future AAP benefits.
- (9) That the county must provide the family with prior written notice of the date payments will be changed or discontinued.
- (10) That continuation of payment depends upon continued legal responsibility of the adoptive parents for the support of the child and upon continued receipt by the child of that support.
- (11) That the AAP payment shall not exceed the payment that would have been made if the child had remained in foster care.
  - (A) The AAP payment may be reduced if there is a change in the child's needs, the services provided the child, or other payments received on behalf of the child.
- (12) That the child is eligible for Medi-Cal services.
- (13) That the child is eligible for services provided pursuant to Title XX ~~§§ 1001-1004~~ of the federal Social Security Act.
  - (A) Title XX services are public social services as described under MPP Sections 30-000 and 31-000.
- (14) The procedure for recertification of the AD 4320.
- (15) That the agreement remains effective regardless of the state in which the adoptive parents reside.
- (16) Any additional services and assistance which are to be provided as part of the agreement.

Authority Cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code.

Reference: 42 USC 673, 695; 45 CFR 1356.40; Sections 14051, 16120, 16120.05, 16121 and 16121.05, Welfare and Institutions Code.

- (a) When the effective date of payment is not known because a child has a mental, physical, medical or emotional condition which does not require current benefits but which could require future benefits, the Adoption Assistance Agreement form (AD 4320) shall indicate that the family may request benefits to meet needs associated with the condition at an unspecified future date.
- (1) The existence of a condition which does not require current benefits shall be certified by a licensed professional competent to make an assessment of the condition and operating within the scope of his or her profession.
  - (2) A history which is likely to lead to a future mental, physical, medical or emotional condition shall be considered as such a condition.
  - (3) The requirements set forth in Section 35333 shall be used to determine payment amount and duration if the family requests AAP benefits.
  - (4) An AD 4320 shall be used to record the revised agreement.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code; Section 1530, Health and Safety Code.

Reference: Sections 16118, 16120, 16120.05, 16121, and 16121.05, Welfare and Institutions Code; 42 USC Sections 673 and 675.

Amend Sections 35341(a)(1), (2) and (3) to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 5 AAP Payment Authorization

35341 PROCEDURES FOR INITIATION OF PAYMENT

35341

- (a) The responsible public agency shall provide the county responsible for payment with information necessary to allow the county to issue AAP payments and authorize the issuance of Medi-Cal cards.
- (1) AAP payments shall not begin before the Adoptive Placement Agreement (AD 907) and the Adoption Assistance Agreement (AD 4320) are signed.
- (12) ~~After the Adoption Assistance Agreement (AD 4320) is signed and when~~ the beginning date of payment is known, the agency shall complete and send the following forms to the county:
- (A) Payment Instructions for Adoption Assistance Program (AAP 2),
  - (B) Eligibility Certification - Adoption Assistance Program (AAP 4)
  - (C) ~~Federal Eligibility Information for Adoption Assistance Program (FC 9)~~ If a Medi-Cal eligible child is enrolled in private health coverage, a Health Insurance Questionnaire (DHS 6155) and
  - (D) Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program (FC 10).
- (23) The child's adoptive name shall be used on the AAP 2, AAP 4, ~~FC 9/~~ and FC 10 and all related correspondence with the county.

HANDBOOK BEGINS HERE

- (A) The AAP 2 initially triggers the creation of a new county payment case record that, for reasons of confidentiality, must in no way identify former county case records, names or numbers.
- (i) Welfare and Institutions Code Section 16118(d) states:
- "Welfare and Institutions Code Section 16118(d): The county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Section 16120 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the Aid to

Families with Dependent Children program if the child were not adopted. The county of responsibility for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."

HANDBOOK ENDS HERE

(b) Upon receipt of the AAP 2, the county shall issue payments as instructed.

HANDBOOK BEGINS HERE

- (1) Eligibility and Assistance Standards (EAS) 45-804.322 states: "EAS 45-804.322: The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date on which the county receives the Payment Instructions - Adoption Assistance Program form (AAP 2) from the agency authorizing payment."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Section 16118, Welfare and Institutions Code and 42 USC 673.

Amend Sections 35343(a)(1) and (2) to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 6 AAP Recertification

35343 PROCEDURES FOR RECERTIFICATION OF ELIGIBILITY AND  
AUTHORIZATION OF PAYMENT

35343

(a) A recertification process shall be completed by the agency which authorized the initial payment either:

(1) During the ~~§§90~~90-day period prior to the end of each payment authorization period specified in Section 35333(~~gd~~).

(A) The process shall not be completed if the child is no longer eligible due to age.

(2) Prior to the ~~§§90~~90-day period if the agency learns that the current AAP grant may no longer be appropriate because:

(A) The child and family no longer meet the AAP eligibility criteria specified in Section 35326.

HANDBOOK BEGINS HERE

1. Example: The child has moved out of the adoptive home, and the adoptive family is not contributing to the child's support.

HANDBOOK ENDS HERE

(B) The child's needs have changed.

HANDBOOK BEGINS HERE

1. Example: The adoptive parents are requesting assistance based on a deferred payment agreement completed as specified in Section 35339.

HANDBOOK ENDS HERE

(C) The services provided to meet the child's needs have changed.

HANDBOOK BEGINS HERE

1. Example: The child leaves a group home placement.
2. Example: The family is failing to provide the services for which the AAP benefit is authorized.

HANDBOOK ENDS HERE

(D) Available community resources have changed.

(E) Family circumstances, including financial resources, have changed substantially.

(b) The recertification process shall include the following steps:

- (1) The county responsible for payment shall mail the adoptive parent(s) the Recertification Information Adoption Assistance Program form (AAP 3) as specified in EAS 45-805.1.

HANDBOOK BEGINS HERE

- (A) MPP Section 45-805.1 states: "EAS 45-805.1: The county shall mail the adoptive parent(s) the Recertification Information - Adoption Assistance Program form (AAP 3) at least 60, and not more than 90, calendar days prior to the date recertification is due and shall document in the case record the date such form was mailed."

HANDBOOK ENDS HERE

- (B) The adoptive parent(s) shall return the AAP 3 to the agency which authorized the initial payment.
- (2) After the agency which authorized the initial payment has received the completed AAP 3 from the adoptive parent(s), the agency shall review the completed AAP 3 and determine the amount and duration of payment as specified in Section 35333.
    - (A) At the adoptive parent's request, any other agency involved in the initial determination of the amount and duration of payment as specified in Section 35325(e)(3)(B)1. shall be consulted by the agency before the amount and duration of payment is redetermined.
    - (B) If the adoptive parent fails to return the AAP 3 by the date recertification is due, the agency shall conclude that the family does not want to continue receiving assistance.
      1. If the family requests renewed assistance within 30 days after the date recertification is due, the effective date of recertification shall be the date that recertification was due.
      2. If the family requests renewed assistance more than 30 days after the date recertification is due, the effective date of the recertification shall be not earlier than the date of the request.

(3) If the agency determines that a change in the amount of payment appears appropriate, the adoptive parents' concurrence shall be obtained prior to changing the amount of payment.

(A) The adoptive parents' concurrence to a change in amount of AAP payment is not required when:

1. The payment amount is changed to prevent the payment from exceeding the maximum payment amount specified in Section 35333(b).
2. The payment amount is changed ~~because the need for care in addition to basic care is no longer supported by a written diagnosis and prognosis by a licensed competent professional as required by~~ to prevent an overpayment pursuant to Section 35344(a)(2) because the adoptive parent does not provide the services for which the payment was authorized to meet a need as determined in Section 35333(a)(1)(B)1.(i).
3. The payment amount is changed to collect an overpayment as specified in Section 35344.
4. Payment is discontinued because the child no longer meets the AAP eligibility requirements specified in Section 35326.

HANDBOOK BEGINS HERE

ABY If the adoptive parent does not agree with the change in the amount of the AAP payment, the parent may request a state hearing pursuant to WPP Section 22-004.

HANDBOOK ENDS HERE

(4) The agency and adoptive parent(s) shall complete an AD 4320 which indicates that the agreement is an amendment to the initial AD 4320.

(A) If the adoptive parent(s) does not concur with a payment amount change made by the agency pursuant to Section 35344(b)(1)(A) but wants to continue receiving a payment at the reduced level pending the outcome of a state hearing, the adoptive parent(s) shall so indicate that when signing the AD 4320. If the agency and the adoptive family are unable to agree on AAP benefits, the agency shall complete an AAP 2 instructing the county to send a Notice of Action to the adoptive family indicating that AAP benefits are denied or discontinued. The agency shall identify the reason as "The agency and the family cannot agree on benefits."

HANDBOOK BEGINS HERE

- (B) If the adoptive parent does not agree with the change in the AAP benefits, the parent may request a state hearing as instructed on the Notice of Action pursuant to MPP Section 22-004.

HANDBOOK ENDS HERE

- (5) The agency shall complete and send a Payment Instructions Adoption Assistance Program form (AAP 2) to the county within five working days of completing the recertification process.

HANDBOOK BEGINS HERE

- (A) MPP Section 45-805.3 states: "EAS 45-805.3: The county shall not provide assistance beyond the end of the last month of payment indicated on the Payment Instructions - Adoption Assistance Program form (AAP 2) unless continued assistance is authorized by the agency on a subsequent AAP 2."

HANDBOOK ENDS HERE.

- (6) The agency shall complete and send a Health Insurance Questionnaire (DHS) 6155 if the child is Medi-Cal eligible and has private health coverage.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 16120, 16121 and 16121.05, Welfare and Institutions Code and 42 USC 673.



SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 7 AAP Overpayments

35344 PROCEDURES FOR IDENTIFICATION AND RECOVERY OF OVERPAYMENTS 35344

(a) An overpayment of Adoption Assistance Program (AAP) benefits may exist in the following situations:

- (1) The adoptive parent receives aid after the child becomes ineligible for assistance due to:
  - (A) The child attaining 18 or 21 years of age unless the agency determines that the child had a mental or physical condition which warranted the continuation of assistance beyond age 18.
  - (B) The adoptive parent discontinuing support to the child.

HANDBOOK BEGINS HERE

1. Example: The child moves to the home of an adoptive relative and the adoptive parent does not provide support to the child in the relative's home.
2. Example: The adoptive parent fails to utilize assistance being provided to pay the cost of an out-of-home placement to pay that cost.

HANDBOOK ENDS HERE

3. The parent may reestablish eligibility by resuming support of the child.
- (C) The adoptive parent ceasing to be legally responsible for the child due to emancipation, relinquishment, vacation of the adoption, or termination of parental rights.
- (2) The adoptive parent does not provide the services for which benefits were authorized.

HANDBOOK BEGINS HERE

- (A) Example: Benefits were authorized to provide transportation to speech therapy twice a month, but the child is not receiving speech therapy.
- (B) Example: Benefits were authorized to provide out-of-home placement, but the child is no longer in out-of-home placement.

HANDBOOK ENDS HERE

- (3) The AAP payment exceeds the foster care payment which would have been paid on behalf of the child if the child had not been placed for adoption.
- (b) The agency which authorized payment shall compute the overpayment amount as follows:
- (1) Compute the correct AAP payment based on correct information for each month.
  - (2) Subtract the correct AAP payment from the amount of assistance actually provided.
- (c) The agency which authorized payment shall inform the county responsible for payment of the reason for the overpayment and the computation of the overpayment amount.
- (d) The county shall attempt to recover the overpayment as specified in MPP Section 45-806 and Section 45-808, which provides for recovery by grant adjustment, demand for repayment, or civil judgment. *agency  
DMC  
4-10-93*
- (e) Overpayments determined to be caused by an adoptive parent's or out-of-home care provider's failure to report information may be referred to the county Special Investigative Unit described in MPP Section 22-007.1.

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HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16120, 16121, and 16121.05, Welfare and Institutions Code.

Amend Section 35345(a)(2) to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 8 Notice of Action

35345 WHEN NOTICE OF ACTION IS REQUIRED

35345

- (a) The agency responsible for authorizing payment shall notify the county responsible for payment by using the Payment Instructions Adoption Assistance Program form (AAP 2) regarding any of the following events which require that the county send the adoptive parent a Notice of Action (NOA):
- (1) Denial of request for adoption assistance benefits.
  - (2) Completion of a deferred payment agreement (Section II of the AD 4320).
  - (3) Authorization of the initial grant.
  - (4) Completion of the recertification process.
  - (5) Payment termination.
  - (6) An overpayment requiring collection.
  - (7) Any change in grant amount.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section 16121.05, Welfare and Institutions Code and 45 CFR, Sections 205.10 and 1355.30.

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 9 Continuation of Aid for the Adoption of Children (AAC)

35347 STATUTORY PROVISIONS FOR AAC

35347

- (a) The agency shall follow the provisions of Welfare and Institutions Code Section 16121.05(d) for those adoption assistance agreements which were in effect prior to October 1, 1982.

HANDBOOK BEGINS HERE

- (1) Welfare and Institutions Code Section 16121.05(d) states:

"Children on whose behalf an aid for adoption of children agreement had been executed prior to October 1, 1982, shall continue to receive aid for adoption of children benefits in accordance with the terms of that agreement. This aid for adoption of children agreement may be renewed, provided total benefits do not exceed five years. Prior to the end of the five-year period, if there is a continuing need related to a chronic health condition of the child which necessitated the initial financial assistance, the time period for which it may be given, shall be determined by the department or the agency, but shall not extend past the time that the child reaches 18 years of age. Prior to the expiration of the extension period, if there is a continuing need, a parent may petition the department or the designated licensed adoption agency for a new period of termination. The department or the agency, shall make its determination regarding the financial ability of the parents to meet the continuing medical needs of the child's health condition at the time of adoption, taking into consideration community resources."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code.

Reference: Section 16121.05(d), Welfare and Institutions Code.

Repeal Section 35351(a)(3)(C), then renumber existing (a)(3)(D) to (a)(3)(C):

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 10 Documentation of AAP Eligibility

35351 MAINTENANCE OF SEPARATE RECORDS

35351

- (a) To maintain confidentiality of the adoption case record, the agency shall maintain copies of the following documents separate from the adoption case record:
- (1) The Request for Adoption Assistance (AAP 1).
  - (2) The Eligibility Certification - Adoption Assistance Program (AAP 4), which verifies that the child meets the Adoption Assistance Program eligibility criteria specified in Section 35326.
  - (3) The following documents relating to the determination of Federal eligibility:
    - (A) Federal Eligibility Certification for Adoption Assistance Program (FC 8).
    - (B) Determination of Federal AFDC-FC Eligibility (FC 3).
    - ~~(C) Federal Eligibility Information for Adoption Assistance Program (FC 9).~~
    - (D) Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program (FC 10).
  - (4) Documentation supporting the determination of the amount and duration of payment made pursuant to Section 35333.
  - (5) The initial Adoption Assistance Agreement (AD 4320).
  - (6) Completed recertification documents, including:
    - (A) Recertification Information - Adoption Assistance Program (AAP 3).
    - (B) The Adoption Assistance Agreement (AD 4320) used as an amendment to the initial agreement.
  - (7) Payment Instructions - Adoption Assistance Program (AAP 2).
  - (8) (Continued)
  - (9) State hearing decisions.

- (10) All AAP related correspondence from the adoptive parent, including supporting documentation submitted to the agency by the parent.
- (11) Any other correspondence relating to the determination of AAP eligibility or grant amount.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section 16118, 16120 and 16120.05, Welfare and Institutions Code and 42 USC 671 and 673.

Amend Section 35352(a)(1) to read:

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID  
FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 11 Reimbursement for Nonrecurring  
Adoption Expenses

35352 NOTIFICATION REQUIREMENTS FOR AGENCIES

35352

(a) The agency shall inform all applicants that:

- (1) Reimbursement for nonrecurring adoption expenses is available to adoptive parents who adopt an AAP-eligible child.
- (2) Agreements entered into pursuant to this section shall meet the provisions of Section 35352.1(a)(7).
- (3) Agreements must be signed at the time of or prior to the final decree of adoption.
- (4) Claims for reimbursement must be filed with the agency responsible for payment of AAP benefits within two years of the date of the final decree of adoption.

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Sections 16119 and 16120.1, Welfare and Institutions Code and 45 CFR 1356.41(e).

Amend Sections 35352.1(a)(2) and (a)(8) to read:

35352.1 ELIGIBILITY FOR REIMBURSEMENT

35352.1

- (a) In order for a claim to be eligible for reimbursement, the responsible public agency shall:
- (1) (Continued)
  - (2) Record in the case file that the child for whose adoptive costs the parents are claiming reimbursement is an AAP\_eligible child as defined in Section 35000(a)(1).
  - (3) through (6) (Continued)
  - (7) Ensure that all adoptive parents sign an agreement with the agency prior to finalization of the adoption. The content of all such agreements shall meet the requirements as follows:
    - (A) The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.
    - (B) (Continued)
  - (8) Limit the maximum reimbursement for nonrecurring adoption expenses to \$400.00 per placement of an AAP\_eligible child. (Continued)

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.41.



- (a) Pursuant to a determination that a claim for reimbursement for nonrecurring adoption expenses meets the eligibility criteria in Section 35352.1, the responsible public agency shall authorize the appropriate county to reimburse the adoptive parents. (Continued)

Authority Cited: Sections 10553, 10554, and 16120.1(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.41(g).

Amend Section 35352.3(b) to read:

35352.3 AGENCY REQUIREMENTS FOR REIMBURSEMENTS

35352.3

(a) (Continued)

HANDBOOK BEGINS HERE

(1) Welfare and Institutions Code Section 16120.1, in pertinent part, states:

(A) "Upon the authorization of the department or, where appropriate, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, the responsible county shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a child eligible for the Adoption Assistance Program.... Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department...."

(2) (Continued)

HANDBOOK ENDS HERE

(b) The state shall reimburse counties for payments made to adoptive parents of AAP-eligible children as mandated by Welfare and Institutions Code Section 16120.1.

HANDBOOK BEGINS HERE

(1) (Continued)

HANDBOOK ENDS HERE

(c) Reimbursement for nonrecurring adoption expenses is contingent upon the ongoing existence of the federal program for these reimbursements as mandated by Welfare and Institutions Code Section 16120.1(c).

HANDBOOK BEGINS HERE

(1) Welfare and Institutions Code Section 16120.1(c), in pertinent part, states:

(A) "...No payments shall be made under this section if the federal program for reimbursement of nonrecurring expenses for the adoption of children eligible for the Adoption Assistance Program pursuant to Section 673 of Title 42 of the United States Code is terminated."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code.

Amend Handbook Section 45-801.11 to read:

CHAPTER 45-800 ADOPTION ASSISTANCE PROGRAM (AAP)

45-801 DEFINITIONS

45-801

The definitions specified in Title 22, California Code of Regulations (CCR) Section 35000 shall apply in this chapter.

HANDBOOK BEGINS HERE

.1 CCR Title 22, Section 35000 states in part:

- .11 "AAP-Eligible Child" means a child who meets the eligibility criteria of Welfare and Institutions Code Section 16120 found in Section 35326.
- .12 "Agency" means a licensed California public or private adoption agency, or the department's adoption district offices.
- .13 "County" means the income maintenance division in each county welfare department responsible for federal and state eligibility determination and payment of AAP benefits.
- .14 "Recertification" means the process by which the agency and the adoptive parent determine whether there are any changes in either the child's needs or the adoptive parent's circumstances which affect eligibility for and/or duration of and/or amount of adoption assistance payments.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16118, 16120 and 16120.05, Welfare and Institutions Code and 42 USC 673.

Amend Sections 45-802.11 and .12 to read:

45-802 AAP ELIGIBILITY

45-802

.1 (Continued)

- .11 For purposes of state AAP benefits, the agency shall have determined that the child is an AAP-eligible child who meets the conditions specified in Welfare and Institutions Code Section 16120.

HANDBOOK BEGINS HERE

.111 Welfare and Institutions Code Section 16120 states:

"A child shall be eligible for Adoption Assistance Program benefits if all of the following conditions are met:

- (a) The child has at least one of the following characteristics that are barriers to his or her adoption:
  - (1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of 3 years older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.
  - (2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability pursuant to Welfare and Institutions Code Section 4512 subdivision (a), including those determined to require out-of-home nonmedical care as defined in Welfare and Institutions Code Section 11464.
- (b) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.
- (c) The child is the subject of an agency adoption as defined in Section 8506 of the Family Code and was any of the following:

- (1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency,
  - (2) Relinquished for adoption to a licensed California private or public adoption agency, or the department, and would otherwise have been at risk of dependency as certified by the responsible public child welfare agency, or
  - (3) Committed to the department pursuant to Section 8805 or 8918 of the Family Code.
- (d) The child is under 18 years of age, or under 21 years of age and has a mental or physical condition which warrants the continuation of assistance.
  - (e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.
  - (f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.
  - (g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits."

HANDBOOK ENDS HERE

- .12 ~~Eligibility of a child for whom an initial~~ Adoption Assistance Agreements ~~and 4120Y was~~ signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).

HANDBOOK BEGINS HERE

.121 Welfare and Institutions Code Section 16121.05(b) states:

- "(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement."

HANDBOOK ENDS HERE

.13 After the agency has determined that the child has met the conditions of Welfare and Institutions Code Section 16120, the county shall determine for purposes of federal AAP eligibility whether the child meets the requirements of Sections 45-802.131, .132 or .133 at the time the adoption petition is filed.

.131 (Continued)

.132 The child shall meet all of the requirements necessary to receive aid under the federal AFDC-FC (Title IV-E foster care) program.

(a) (Continued)

.133 The child shall meet all of the requirements necessary to receive aid under the federal AFDC-FG or U program and be placed for adoption with the relative with whom the child has been living.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16120 and 16121.05(b), Welfare and Institutions Code and 42 USC 673.

- .1 (Continued)
- .2 The determination of the county responsible for the actions in Section 45-803.1 shall be made in accordance with Welfare and Institutions Code Section 16118(e).

## HANDBOOK BEGINS HERE

- .21 Welfare and Institutions Code Section 16118(e), in pertinent part, states:

"For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the Aid to Families with Dependent Children program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."

## HANDBOOK ENDS HERE

- .3 Once established, the county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Section 16118, Welfare and Institutions Code.



Amend Section 45-804.11 to read:

45-804 PAYMENT

45-804

.1 County Actions and Payment Amount

.11 Upon receipt of the Payment Instructions - Adoption Assistance Program form (AAP 2) and the ~~Federal Eligibility Information for Adoption Assistance Program form (FC 9)~~ Eligibility Criteria - Adoption Assistance Program form (AAP 4) from the agency, the county shall determine whether the child meets the requirement for federal AAP eligibility as specified in Section 45-802.1 3.

.111 When the child meets the requirements of Sections 45-802.131, .132, or .133, FFP shall be claimed in the AAP payment up to the maximum of the AFDC-FC payment for the child if in a foster family home.

.112 In those cases where the child is federally eligible, and will receive a payment greater than the payment for the child if in a foster family home, state participation shall be available to supplement the remainder of the AAP payment. (Continued)

.12 The county shall issue the payment in the amount indicated on the AAP 2, except as provided in .212 below.

.2 Beginning Date of Payment

.21 The beginning date of payment for AAP shall be the date indicated on the AAP 2. (Continued)

.3 Payee and Delivery

.31 (Continued)

.311 Upon the written instruction of the adoptive parent, payment may be made on the parent's behalf to a provider of out-of-home care services if the child is placed out of the adoptive home.

.32 (Continued)

.321 (Continued)

.322 The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date on which the county receives the AAP 2 from the agency authorizing payment.

.4 Recertification and Restoration of Payment

- .41 After initial authorization of payment, the county shall take action to restore, increase, suspend, decrease, or discontinue payment as instructed by the agency on the AAP 2.

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16121, Welfare and Institutions Code and 42 USC 673.

Amend Section 45-805.1 to read:

45-805      RECERTIFICATION OF ELIGIBILITY

45-805

- .1    The county shall mail the adoptive parent(s) the Recertification Information - Adoption Assistance Program form (AAP 3) at least 60, and not more than 90, calendar days prior to the date recertification is due and shall document in the case record the date such form was mailed.
- .2    Recertification shall be due at the end of the last month of payment specified on the most recent Payment Instructions - Adoption Assistance Program form (AAP 2).

HANDBOOK BEGINS HERE

- .21    EXAMPLE:    The beginning date of payment is May 13, 1993. Recertification is due on April 30, 1995. The Recertification Information form shall be sent to the adoptive parent(s) before March 2, 1995.

HANDBOOK ENDS HERE

- .3    The county shall not provide assistance beyond the end of the last month of payment indicated on the AAP 2 unless continued assistance is authorized by the agency on a subsequent AAP 2.
- .31   If the county has not received the AAP 2 by the 10th of the month prior to the date recertification is due, the county is not required to meet the payment time frames specified in Section 45-804.321 but shall meet the time frames specified in Section 45-804.322.

Authority Cited:    Sections 10553 and 16118, Welfare and Institutions Code.

Reference:          Section 16120.05, Welfare and Institutions Code.

- .1 The county shall mail the adoptive parent(s) adequate notice as defined in MPP Section 22-001a.(1) after receiving notice from the agency of any of the following events:
  - .11 Denial of a request for adoption assistance benefits.
  - .12 Completion of a deferred payment agreement.
  - .13 Authorization of the initial grant.
  - .14 Completion of the recertification process.
  - .15 Payment termination.
  - .16 An overpayment requiring collection.
  - .17 Any change in grant amount.
- .2 The county shall send adequate notice of action to the adoptive parent with the Recertification Information - Adoption Assistance Program form (AAP 3) stating that assistance will stop on the date recertification is due if recertification is not completed.
- .3 (Continued)
- .4 When county action would result in a discontinuance, suspension, or decrease in payment, the county shall mail adequate and timely notice as defined in MPP Sections 22-001a.(1) and 22-001t.(1). Such notice shall be mailed to the adoptive parent(s) at least ten days prior to the effective date of the proposed action. (Continued)

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section 16121.05, Welfare and Institutions Code and 45 CFR 205.10 and 1355.30.

Amend Section 45-807.13 to read:

45-807 MAINTENANCE OF CASE RECORD

45-807

.1 The county AAP case record shall contain copies of the following:

.11 All Payment Instructions - Adoption Assistance Program forms (AAP 2) received from the adoption agency.

.12 The Eligibility Certification - Adoption Assistance Program form (AAP 4).

.13 The ~~Federal Eligibility Information for Adoption Assistance Program form (FC 9)~~ and the Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program form (FC 10) from the agency supporting the determination that the child meets the federal AAP eligibility requirements of Section 45-803.

.1~~3~~4 (Continued)

.15 The Health Insurance Questionnaire (DHS 6155).

Authority Cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Section 16118, Welfare and Institutions Code.

- .1 The county may attempt to recover all AAP overpayments.
  - .11 Recovery of overpayments from an adoptive parent no longer receiving assistance is not required when the cost of collection would exceed the amount of recovery.
  - .12 Recovery shall be made from the adoptive parent(s) who signed the Adoption Assistance Agreement form (AD 4320).
    - .121 If the overpayment resulted from a payment made to an out-of-home care provider upon request of the adoptive parent, as provided in Section 45-804.311, recovery of payments made for services not provided shall be made from the out-of-home care provider.
- .2 Methods of Recovery
  - .21 Grant Adjustment
    - .211 Subject to the limit in Section 45-808.212, the overpayment shall be subtracted from the current AAP payment. If the current AAP payment is insufficient to recover the entire overpayment, then the remaining amount of the overpayment shall be subtracted from the AAP payments to be received during the succeeding six months or less, or by the end of the child's eligibility for AAP benefits, whichever occurs first.
    - .212 The amount of the adjustment shall not exceed an amount which would cause the adoptive family's net income to be below the Aid to Families With Dependent Children (AFDC) Minimum Basic Standard of Adequate Care (MBSAC) as specified in Section 44-315.311.
  - .22 Demand for Repayment
    - .221 The county shall demand repayment of any amount not recovered by grant adjustment, or otherwise repaid using the appropriate Notice of Action form.
  - .23 Civil Judgment
    - .231 If the adoptive parent no longer receiving aid refuses or is unable to repay the amount demanded, the county shall refer the case to the appropriate county official for action on a civil judgment.
      - (a) An abstract of civil judgment shall be recorded pursuant to Section 674, Code of Civil Procedure, in any county in which the recipient owns real property.

(b) If a recipient is ineligible for further aid, the county shall take all appropriate action pursuant to Section 681, et seq., Code of Civil Procedure, to execute the judgment.

.24 Nothing in Sections 45-808.21, .22 or .23 shall preclude the county from arriving at a reasonable settlement of its demand for repayment with the adoptive parent.

Authority Cited: Sections 10553, 16118 and 16121.05, Welfare and Institutions Code.

Reference: Section 16121.05, Welfare and Institutions Code.

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400, REV. 2-91/2

(See instructions on reverse)

For use by Secretary of State only

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (If any)

RDB#0490-16

OAL FILE  
NUMBERS

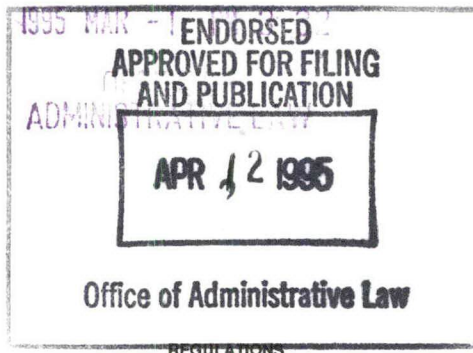
NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

APR 12 1995

At 3:47 O'clock P.M.  
BIL JONES, Secretary of State  
By Robert L. Conner  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Div. 22 State Hearing Regulations		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-#9-2	PUBLICATION DATE 3-4-94	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND See attached
	REPEAL See attached

## 2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

February 2, 1995 to February 17, 1995

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify) \_\_\_\_\_

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, DIRECTOR

DATE

MAR 1 1995



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

STD. 400  
Page 2  
RDB#0490-16

AMEND

Sections 22-000, 22-001, 22-003, 22-015, 22-017, 22-021, 22-022,  
22-023, 22-024, 22-025, 22-026, 22-027, 22-028, 22-045, 22-049,  
22-051, 22-053, 22-054, 22-055, 22-056, 22-059, 22-061, 22-065,  
22-107 and 22-113

REPEAL

Section 22-005

Amend Section 22-000.1, relocate and renumber Sections 22-000.11, .111, .112, and .113 to Sections 22-069.12, .121, .122, and .123; renumber remaining Sections 22-000.12 through .16 to Sections 22-000.11 through .15 respectively and amend to read:

22-000 STATE HEARING - GENERAL (Continued)

22-000

- .1 The responsibility for providing a full and impartial hearing to the claimant rests jointly with the county and the state department. ~~for whom the county is acting as agent~~

~~.11~~

~~.111~~

~~.112~~

~~.113~~

HANDBOOK BEGINS HERE

~~.121~~ (Continued)

HANDBOOK ENDS HERE

~~.122~~ (Continued)

~~.123~~ (Continued)

~~.124~~ The regulations in this chapter shall apply to all public ~~assistance~~ social services programs subject to a state hearing. (Continued)

~~.125~~ (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10051, 10553, 10554 and 10950, Welfare and Institutions Code and 45 CFR 205.10.

Amend Section 22-001 to read:

22-001 DEFINITIONS

22-001

The following definitions shall apply wherever the terms are used throughout Division 22.

a. (1) Adequate Notice - A written notice informing the claimant of the action the county intends to take, the reasons for the intended action, the specific regulations supporting such action, an explanation of the claimant's right to request a state hearing, and if appropriate, the circumstances under which aid will be continued if a hearing is requested/, and for the AFDC Program, if the county action is upheld, that the aid paid pending must be repaid. In the Food Stamp Program, see Section 63-504.2.

(2) (Continued)

(3) (Continued)

(A) Such public social services programs include, but are not limited to, Aid to Families with Dependent Children (AFDC), the State administered programs for recipients of SSI/SSP (Division 46), Refugee Resettlement Program (RRP), the Cuban/Haitian Entrant Program (CHEP), the Food Stamp Program (FS), the California Medical Assistance Program (Medi-Cal), the Transitional Child Care Program (TCC), the Social Services Programs described in Divisions 30 and 31 of the Manual of Policies and Procedures (MPP), ~~Women, Infant and Children Program (WIC)~~, Aid for the Adoption of Children Program (AAC), Adoption Assistance Program (AAP), and Multipurpose Senior Services Program (MSSP).

(4) (Continued)

(5) Authorized Representative - An individual or organization that has been authorized by the claimant or designated by the Administrative Law Judge or Department pursuant to Sections 22-01085 and 22-101 to act for the claimant in any and all aspects of the state hearing or administrative disqualification hearing. (Continued)

(A) (Continued)

(B) (Continued)

(C) The claimant shall not be required to designate an authorized representative and may represent him/herself at all stages of the hearing process. Also see Sections 22-01085 and 22-101.

c. (1) (Continued)

(2) (Continued)

(A) (Continued)

(B) (Continued)

1. (Continued)

2. There is a right to a hearing concerning group home rates established by the state. For hearing procedures concerning group home rates established by the state, see Section 11-407 et seq.

(C) through (G) (Continued)

(3) (Continued)

- (4) County or CWD - For purposes of this division, "county" or "CWD" generally refers to the county welfare department. The term "county welfare department" is used in Sections 22-001c.(7), 22-003 and 22-0~~7~~73 to mean the welfare department in the county in which the recipient resides or the county that has taken the action or inaction with which the recipient is dissatisfied. Any references to "county" or "CWD" may also refer to any state department or contractor whose actions may be subject to a state hearing. For purposes of Sections 22-053.165, 22-073.13, 22-073.252, .253, and .254, "county" or "CWD" shall not include the State Department of Health Services.

- (5) County Action - All actions which require adequate notice (see Section 22-0~~7~~71) and any other county action or inaction relating to the claimant's application for or receipt of aid.

(6) (Continued)

- (7) County or CWD Representative - An employee who is assigned the major responsibility for preparing and/or presenting a hearing case on behalf of the CWD. (See Section 22-0~~7~~73.13.)  
(Continued)

f. (1) Filing Date

(A) (Continued)

4. If the date cannot be determined by Sections 22-001f.(1)(A)1., ~~of~~ 2., or 3., the date the request was signed; (Continued)

(B) (Continued)

- (C) If the claimant is provided a preliminary hearing in accordance with Section 22-0~~7~~474, the filing date for purposes of meeting the 90-day processing limitation set forth in Section 22-060, shall be the date of the decision from the preliminary hearing.

h. (1) Holiday - A Saturday, Sunday, ~~of~~ and the holidays as specified in Government Code Sections 6700 et seq. which result in a postal holiday or the closing of Department or county offices. (Continued)

- p. (1) Preliminary Hearing - A procedure which provides a claimant who has requested a state hearing an opportunity to present his/her case directly to the CWD. The preliminary hearing procedure is available only in counties which have developed a preliminary hearing system under prior written approval by the Chief Administrative Law Judge. (See Section 22-0274). (Continued)
- t. (1) Timely Notice - A written notice that is mailed to the person affected at least 10 days before the effective date of the action. See Section 22-0272.4 for computation of the 10-day period. (Continued)

Authority Cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code.

Reference: Sections ~~10553/~~ ~~10554/~~ 10613, 10950, 10963, 11209, and 11511(a), Welfare and Institutions Code; ~~and~~ Sections 6700 and 6701, Government Code; 45 CFR 205.10; 45 CFR 205.10(a)(4)(i)(B); and 45 CFR 355.4(j)(1) and Part 256.

Repeal Sections 22-003.2 through .5; Adopt Section 22-003.15 to read:

22-003 RIGHT TO STATE HEARING (Continued)

22-003

.1 (Continued)

.15 Complaints as to discourteous treatment by a county employee shall not be subject to the state hearing process but shall be remanded to the CWD for resolution. This procedure shall only apply in those situations in which the ALJ at the hearing determines that the basis of the claimant's complaint has not resulted in any denial, delay, discontinuance or reduction in aid or services.

12 A request for a state hearing may be either written or oral. A written request concerning county administered state aid programs shall be filed with the county welfare department, and for all other state aid programs, the request shall be filed with the State Department of Social Services in Sacramento. All oral requests shall be made to the State Department of Social Services in Sacramento. The Department of Social Services shall maintain a toll free number for the receipt of oral hearing requests.

121 A request for hearing may be made in any form. However, claimants are encouraged to use the reverse side of the Notice of Action (N/A) or DPA 377 form series or other DSS approved forms. The county agency shall assist the claimant in filling a request for a state hearing. The request for a state hearing should identify the aid program involved, as well as, the reason for dissatisfaction with the particular action or inaction involved in the case. If an interpreter will be necessary, the claimant should so indicate on the hearing request.

122 When a written request for a state hearing is received by the county welfare department, a copy shall be forwarded to the office of the Chief Referee in Sacramento no later than three (3) working days after its receipt.

13 Claimant Dies After Request for a State Hearing

If a claimant dies after a request for a state hearing has been filed, yet before a hearing has been held, the proceeding may only be continued by, or on behalf of, the representative of the claimant's estate.

131 The legal representative of a claimant's estate is the executor or administrator of the estate. If there is no estate to be probated, the representative may be a relative (i.e., parents, spouse, children, siblings, grandparents or grandchildren of the deceased claimant).

14 Request for a State Hearing After Death of Claimant

If the claimant dies before filing a request for a state hearing, a request may only be filed by or on behalf of the representative of the claimant's estate as defined in 131 above.

## 13 Request for Review

The claimant may request a review of any county action by the county or by the department without requesting a state hearing (see Chapter 22-100 and Section 83-804.4 for conferences under the Food Stamp Program). The review by the department is conducted by the Public Inquiry and Response Unit. A request for review is to be distinguished from the preliminary hearing procedures described in Section 22-024. If the claimant remains dissatisfied after that review has been completed, the claimant may still request a state hearing. However, the time limitations involved in requesting a state hearing (see Sections 22-009 and 22-022) will not be suspended during the pendency of a request for review. While conducting the review, the county or department shall inform the claimant of the right to request a state hearing including, if applicable, the right to receive aid paid pending.

Authority Cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10613, 10950, 11209, and 11511(a), Welfare and Institutions Code; 45 CFR 205.10; and 45 CFR 255.4(j)(1) and 256.4(b); and Madrid v. McMahon (1986) 183 CA 3d 151, 228 Cal. Rptr. 14.



Repeal (Title) and Sections 22-005.1 through .4; repeal and relocate handbook Section 22-005.11 to 22-113:

22-003 REQUEST FOR REVIEW

22-003

- 11 The claimant may request a review of any county action by the county or by the department without requesting a state hearing. (See Chapter 22-100 and Section 22-804.4 for conferences under the Food Stamp Program.)

HANDBOOK BEGINS HERE

- 111 The review by the department is conducted by the Public Inquiry and Response Unit. A request for review is to be distinguished from the preliminary hearing procedure described in Section 22-024.

HANDBOOK ENDS HERE

- 12 If the claimant remains dissatisfied after that review has been completed, the claimant may still request a state hearing.
- 13 The time limitations involved in requesting a state hearing (see Sections 22-009 and 22-022) shall not be suspended during the pendency of a request for review.
- 14 While conducting the review, the county or department shall inform the claimant of the right to request a state hearing including, if applicable, the right to receive aid paid pending.

Authority Cited: Sections 10333 and 10334, Welfare and Institutions Code.

Reference: Sections 10333 and 10334, Welfare and Institutions Code.

Adopt new Handbook Section 22-009.13 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING

22-009

.1 (Continued)

HANDBOOK BEGINS HERE

.13 In the Food Stamp Program, the time limits for state hearing requests are set forth in Sections 63-802.4 and 63-804.5.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10950 and 10951, Welfare and Institutions Code/ and  
Morales v. McMahon (1990) 223 Cal. App. 3rd Section 184, 272  
Cal. Rptr. 688.

Adopt new Sections 22-045.13, .131 and .132; amend Section 22-045.21 to read:

22-045 SETTING THE HEARING

22-045

.1 (Continued)

.13 The Administrative Adjudications Division shall be permitted to schedule hearings to be conducted by telephone or video conference in lieu of an in-person hearing. Such hearings shall be conducted by telephone or video conference only if the claimant agrees.

.131 If the claimant later rescinds the agreement for a telephone hearing up to the time of the commencement of the hearing, an in-person hearing will be scheduled and this shall be considered a postponement for good cause.

.132 The ALJ may terminate the telephone hearing at the request of either party or on his/her own motion and order an in-person hearing when he/she determines that the claimant's right to due process is being prejudiced by the telephone hearing procedure.

.2 (Continued)

.21 In the Food Stamp Program, the Administrative Adjudications Division shall expedite the scheduling of hearings requested by households who expect to leave the State. See Section 22-0273.243.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code/ and 45 CFR 205.10(a)(2).

Repeal Sections 22-049.15 and .16; Amend Sections 22-049.13, .52, .523, .53, .532 and .811(a) to read:

22-049 THE HEARING - GENERAL RULES AND PROCEDURES

22-049

.1 (Continued)

.13 Both the county and the claimant shall have the right to have a representative present throughout the hearing. Both the county representative and the claimant's authorized representative shall have the right to designate another person to be present and advise the representative throughout the hearing. This individual may be a witness who testifies on behalf of the county or claimant and in this circumstance, Section 22-049.12 would not apply. If this individual is a witness, he/she may not be present as an advisor until after he/she has testified.

.14 (Continued)

*/15 In the Food Stamp Program if the claimant is contesting an Employment Service Agency (ESA) determination of failure without good cause to comply with the work registration/job search requirements set forth in Section 63-407.14, the ESA shall participate in the hearing solely through the submission of ESA documents unless the Administrative Law Judge determines additional ESA involvement is required. Additional ESA participation shall be required if:*

*/151 The Administrative Law Judge determines that the documents submitted by ESA are not sufficient; or*

*/152 The claimant requests the right to confront an ESA representative, and the Administrative Law Judge determines fairness requires that the claimant be given an opportunity to confront an ESA representative;*

*/16 If the Administrative Law Judge determines that additional ESA participation in the hearing is necessary the Administrative Law Judge shall:*

*/161 Continue the hearing and reschedule it for a time at which the ESA representative is able to attend; or*

*/162 Place a conference call to the appropriate ESA representative and require ESA participation in the hearing through this conference call;*

.2 through .4 (Continued)

.5 (Continued)

.52 If the claimant contends that he/she is not adequately prepared to discuss the issues because he/she did not receive adequate notice required by Section 22-0271.1, this issue shall be resolved by the Administrative Law Judge at the hearing.  
(Continued)

.523 If the notice was not adequate and involved a discontinuance, suspension, cancellation, termination or reduction of aid, other than those referred to in Sections 22-0772.1 through .143 aid shall be reinstated retroactively and the provisions of Section 22-0772.5 shall apply. (Continued)

.53 In cases in which a jurisdictional issue is raised, either by one of the parties or by the Administrative Law Judge, the parties must be prepared to submit evidence on the substantive issues except as provided in Sections 22-049.532/ and 22-054.4.

.531 (Continued)

.532 If, prior to or at the hearing, both parties agree to discuss only the jurisdictional issue, or the ALJ on his/her own motion determines that only the jurisdictional issue will be discussed, the parties need not submit evidence on the substantive issues and the Administrative Law Judge shall take evidence only on the jurisdictional issue. Within ten days from the date of the hearing, the Administrative Law Judge shall: (Continued)

.6 through .7 (Continued)

.8 (Continued)

.81 (Continued)

.811 (Continued)

HANDBOOK BEGINS HERE

(a) See Section 22-0773.25 regarding position statement requirements.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554, 10958.1 and 10967, Welfare and Institutions Code.

Amend Sections 22-051.4 and .6 to read:

22-051 THE EXAMINATION OF RECORDS AND ISSUANCE OF  
SUBPOENAS (Continued)

22-051

- .4 Before the hearing has commenced the Chief Administrative Law Judge or his/her designee shall be permitted to, upon the written or oral request of the claimant or the CWD, issue a: (Continued)
- .5 (Continued)
- .6 The party requesting the subpoena or subpoena duces tecum shall have the responsibility of having it served. The service of the subpoena shall be made to allow the witness subpoenaed a reasonable time for preparation and travel to the place of attendance.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code/ and Code of Civil Procedure Section 1987.

Repeal Sections 22-053.121, .211, .212, .31 and .32; Amend Sections 22-053.11, .112, .12, .163, .165 and .21 to read:

22-053 POSTPONEMENTS AND CONTINUANCES FOR ADDITIONAL EVIDENCE

22-053

.1 (Continued)

- .11 A hearing involving the Food Stamp Program shall be postponed upon the initial request of the claimant prior to the hearing for up to 30 days.

.111 (Continued)

- .112 ~~Claimants shall be permitted to request additional postponements. Such requests shall be required to~~ In all other programs, a hearing may be postponed upon the request of the claimant only if such request meets the good cause criteria set forth in Section 22-053.16.

~~(a) Where good cause exists, the claimant's request for additional postponement shall be granted and all pending, if appropriate shall continue.~~

~~(b) Where good cause has not been established, the claimant's request for an additional postponement shall be denied.~~

~~(c)~~ (Continued)

- .12 Upon the request of the county, a hearing shall be permitted to be postponed:

~~.121 Prior to the hearing if the claimant agrees.~~

~~.122~~ (Continued)

~~.123~~ (Continued)

- .13 through .15 (Continued)

- .16 Good cause shall be established if the claimant or authorized representative establishes that the case should be postponed due to:

.161 (Continued)

.162 (Continued)

- .163 Sudden and unexpected emergencies including but not limited to/  
which prevent the claimant or the authorized representative from  
appearing.

(a) Traffic accidents on the day of the hearing/

(b) Inability to arrange transportation on the day of the hearing/

(c) Illness or injury of a household or family member who requires immediate care/

- .164 (Continued)

- .165 The county, when required, does not make a position statement available to the claimant not less than two working days prior to the date of the scheduled hearing, or the county has modified the position statement (as defined in Section 22-073.252) after providing the statement to the claimant, and the claimant has waived decision deadlines contained in Section 22-060.

.2 (Continued)

- .21 If the Administrative Law Judge conducting the hearing determines that evidence not available at the hearing is necessary for the proper determination of the case, the Administrative Law Judge shall have the authority/ to/ continue the hearing to a later date or close the hearing and hold the record open for a stated period not to exceed 30 days in order to permit the submission of additional documentary evidence.

211 Continue the hearing to a later date/ In connection therewith/ the Administrative Law Judge shall have the authority to direct either party to produce additional evidence/

(a) When a continuance is ordered during a hearing/ oral notice of the time and place of the continued hearing shall be given to each party present at the hearing/

212 Close the hearing and hold the record open for a stated period not to exceed 30 days in order to permit the submission of additional documentary evidence/

(a) Such material shall be submitted within a period not to exceed 30 days after the close of the hearing and shall be made available both to the county and to the claimant/

(b) The county and claimant shall each have the right to rebut such submitted material during a stated period not to exceed 30 days after the submission of the additional evidence/

(c) The Administrative Law Judge conducting the hearing shall have the authority to order a further hearing if the nature of the additional information or the rebuttal makes a further hearing necessary/



.3 (Continued)

- 131 In the Food Stamp Program every time a claimant requests a postponement or continuance he/she shall be given a written notice that explains that the time limit for rendering a decision shall be extended by the same number of days as the hearing is postponed or continued.
- 132 Sections 13 and 131 above shall not apply if the Chief Administrative Law Judge or the Administrative Law Judge determines that a decision of the Director can be issued within the 30-day or 90-day period regardless of the postponement, continuance, or reopening as provided in Section 22-0801.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554, 10952.5 and 10957, Welfare and Institutions Code/ and 7 CFR 273.15(c).

Adopt a new Section 22-054.222(a), then renumber existing Sections 22-054.222(a), (b) and (c) to .222(b), (c) and (d); Amend Sections 22-054.211, .222 and .4 to read:

22-054 DISMISSALS

22-054

.1 (Continued)

.2 (Continued)

.21 Withdrawal (Continued)

.211 (Continued)

(a) Such withdrawal shall be submitted in writing. If the claimant has verbally withdrawn the hearing request prior to the hearing, it will be treated as a request for postponement pending receipt of the written withdrawal, and such withdrawal is unconditional, the Department will send the claimant a letter confirming the withdrawal of the request. The letter shall serve as the written withdrawal. The request for hearing shall be considered withdrawn unless within 15 days of the mailing of such letter, the Department receives notice, either submitted in writing or orally, that the claimant has not withdrawn the request for hearing.

(b) *If the Office of the Chief Administrative Law Judge fails to receive the written withdrawal within 30 days, the matter shall be rescheduled.*

(c) (Continued)

HANDBOOK BEGINS HERE

- (1) See Section 22-072.671 regarding the effect of withdrawal on aid pending.

HANDBOOK ENDS HERE

(2) (Continued)

(A) (Continued)

(3) If the withdrawal is conditional:

(A) (Continued)

(B) Any agreement under this provision shall provide that the actions of both parties will be completed within 30 days/ from the date the conditional withdrawal form is signed by both parties and received by the county. See Section 22-071.14 regarding adequate notice with conditional withdrawal. (Continued)

.22 Abandonment (Continued)

.221 (Continued)

.222 If within ten days from the date of the scheduled hearing, the claimant requests that the hearing request be reinstated and establishes good cause for failing to appear at the hearing, ~~as specified in Section 22-053.16~~ the hearing shall be rescheduled.

(a) The criteria for good cause shall include, but not be limited to:

(1) The failure of the claimant to receive notice of the time and place of the hearing. The notice of the time and place of the hearing shall be mailed to the claimant's last known address and good cause shall not be established if the claimant failed to notify the county or Department of any change of address while the appeal is pending.

(2) The criteria set forth in Section 22-053.16.

(~~b~~) If the hearing is rescheduled, any applicable aid pending the hearing shall be reinstated as specified in Section 22-072.6711.

(~~c~~) If the hearing is not rescheduled, or the claimant does not request reinstatement within 10 days from the scheduled hearing date, the claimant shall be notified in writing as to the specific reasons for the decision and right to request ~~reconsideration by the Chief Administrative Law Judge of such determination~~ a rehearing as specified in Section 22-065.

(~~d~~) (Continued)

.3 (Continued)

.36 The Administrative Law Judge fails to receive a written authorization following the hearing as specified in Section 22-07885.2.

.37 The request for hearing raises a compliance issue, e. g., an allegation that the county has failed to comply with a previously adopted state hearing decision. See Section 22-07878.

.4 The Chief Administrative Law Judge, or his/her designee, shall have authority to dismiss, a hearing request which is subject to dismissal under Sections 22-054.31, .32 or .37.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code/ and 45 CFR 205.10(a)(5)(8).

Repeal Section 22-055.22; Amend Section 22-055.21 to read:

22-055 DISQUALIFICATION OF AN ADMINISTRATIVE LAW JUDGE (Continued) 22-055

.2 (Continued)

.21 ~~A~~ Such request made prior to the close of the hearing record shall ~~promptly~~ be ruled upon by the Administrative Law Judge/ prior to the close of the record. The Administrative Law Judge's determination is subject to rehearing review and judicial review in the same manner and to the same extent as other determinations of the ALJ in the proceeding.

~~122 After the close of the record/ and issuance of the decision/ a request for rehearing must be filed in order to disqualify an Administrative Law Judge/~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Sections 22-056.2 through .5; Amend Sections 22-056.1 and .11 to read:

22-056 CLAIMANT LIVING OUTSIDE OF CALIFORNIA/  
INSTITUTIONALIZED CLAIMANTS

22-056

- .1 When a request for a state hearing is received from a person presently living outside of the state, or from any inmate or patient of a California penal institution or other institution, ~~which prohibits the conduct of oral hearings~~; it shall be acknowledged and reported in the same manner as other requests for a state hearing.
- .11 Unless the claimant voluntarily offers to return to California for the hearing or authorizes a representative in California, the ~~CWP~~ parties shall be advised that the hearing will be ~~processed~~ conducted by questionnaire telephone.
- .2 A questionnaire consists of a written series of questions to be answered by the claimant in writing and under penalty of perjury. The completed questionnaire properly attested to and submitted shall constitute the claimant's appearance and testimony at the hearing.
- 121 It shall be the responsibility of the administrative law judge to initiate discussion with the CWP regarding preparation of the questions to be included.
- 122 The CWP shall submit the questions it wants answered.
- 13 Upon receipt of the notification from the Department that the hearing will be conducted by questionnaire, the claimant shall have a minimum of ten days in which to return a waiver of right to an oral hearing.
- 131 If the claimant fails to return the waiver within this ten-day period, the request shall be considered abandoned.
- 132 If the waiver of the right to an oral hearing is returned within the ten-day period, the date of the state hearing shall be deemed to be the date the waiver was mailed by the claimant.
- 133 The claimant shall be notified that the 60-day and 90-day time period specified in Section 22-056 shall be extended for a period of 60 days in order to complete the hearing process by correspondence.
- 14 The claimant shall have a maximum of 22 days from the date of the mailing of the questionnaire in which to respond to questions.
- 141 If there is no response within that period, the request shall be considered abandoned. After the receipt of a completed questionnaire, an aid paid pending decision shall be made, if applicable, under Section 22-022.5.

15 Copies of the completed questionnaire and aid pending decision shall be sent to the county!

151 The county has seven days to reply the completed questionnaire!

152 The county may also request reconsideration of the aid paid pending decision!

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-059.11 and .12 to read:

22-059 COMMUNICATIONS AFTER HEARING

22-059

.1 (Continued)

- .11 Oral and written communications after the hearing concerning the status of the decision, or the date of delivery of additional evidence to be submitted under the provisions of Section 22-053.21~~7~~, or protesting an Administrative Law Judge's determination under Section 22-0~~7~~72.63 with respect to aid pending a hearing or a disqualification request under the provisions of Section 22-055, are not improper; and
- .12 An Administrative Law Judge shall have authority on his/her own motion or at the request of either party to reopen the record for receipt of additional information, if all parties are notified of the reason for the reopening and the submission of such evidence conforms to the requirements of Sections 22-053.21~~7~~ and .3.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Adopt new Section 22-061.5 to read:

22-061 SUBMISSION OF PROPOSED DECISION/ADOPTION (Continued)

22-061

.4 (Continued)

.5 Decisions issued by Administrative Law Judges shall be based exclusively on the evidence and other material introduced at the hearing, or after the hearing but while the record is open, and shall specify the reasons for the decision and identify the supporting evidence and regulations.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code/ and 45 CFR 205.10(a)(15)(ii).



Amend Section 22-065.1 to read:

22-065 REHEARING (Continued)

22-065

.1 (Continued)

.11 (Continued)

.112 (Continued)

HANDBOOK BEGINS HERE

(a) Such request should specify the reasons for the rehearing request.

HANDBOOK ENDS HERE

.12 (Continued)

.124 Explain how the additional evidence will change the outcome of the hearing decision.

.13 (Continued)

.131 In the absence of such statement, the date of receipt shall be ~~xxx~~ either three days after the date of the postmark on the envelope containing the decision/ or three days after the date the decision was released by the Department whichever is later.  
(Continued)

Authority Cited: Sections 10553, ~~and~~ 10554/ and 10960, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Renumber and amend existing Section 22-015 to 22-069; relocate and renumber Sections 22-000.11, .111, .112, and .113 to Sections 22-069.12, .121, .122, and .123 respectively to read:

22-0~~15~~69 COUNTY WELFARE RESPONSIBILITY

22-0~~15~~69

- .1 Each county shall furnish to the Administrative Adjudications Division the name of an individual who, in coordination with the Chief Administrative Law Judge, is responsible for discharging the requirements of Sections 22-0~~15~~69 through 22-0~~27~~78.

HANDBOOK BEGINS HERE

- .11 Sections 22-0~~15~~69 through 22-0~~27~~78 describe the responsibilities of the county in the state hearing process.

HANDBOOK ENDS HERE

- .1~~1~~2 The county responsibility shall include:
- .1~~1~~21 Investigation of the case and assistance to the claimant prior to the hearing; and
  - .1~~1~~22 Presentation of the county's position during the hearing; and
  - .1~~1~~23 Compliance with state hearing decisions.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Renumber Section 22-017 to Section 22-070 and amend to read:

22-0~~17~~70 EXPLANATION OF RIGHT TO STATE HEARING

22-0~~17~~70

.1 (Continued)

.12 Pamphlet PUB 13 ~~(7/85)~~ (4/91), "Your Rights Under California Welfare Programs," prepared by the Department concerning client rights, complaints and state hearings. (Continued)

.2 The county shall also provide the explanation required in Sections 22-0~~17~~70.11 and .111 when a claimant makes an informal complaint with the county agency.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Renumber Section 22-021 to 22-071 and amend to read:

22-0~~2~~71 ADEQUATE NOTICE

22-0~~2~~71

.1 Except as provided in Section 22-0~~2~~71.2, the county shall give the claimant adequate notice as defined in Section 22-001a.(1) in the following instances:  
(Continued)

.17 When the county takes action regarding compliance related issues resulting from state hearing decisions (see Sections 22-001c.(3) and 22-0~~2~~78).

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10613, 11209, and 11511(a), Welfare and Institutions Code; and 45 CFR 255.4(j)(1) and 256.4(b).

Repeal Section 22-072.14; renumber Section 22-022 to Section 22-072 and amend to read:

22-072 TIMELY NOTICE - AID PENDING HEARING

22-072

- .1 Except as provided below, in all instances where the county action would result in a discontinuance, termination, suspension, cancellation, or decrease of aid, or in a change in the manner or form of payment to a protective or vendor payment, the county shall mail timely and adequate notice as defined in Sections 22-001a.(1) and 22-001f.t.(1) to the persons affected.
- .11 The provisions of Section 22-072 shall not apply to certain actions involving Social Services (see Division 30).
- .12 In the Food Stamp Program the provisions of Section 22-072 shall be limited and modified by Sections 63-504.266, .267, 63-804.6, and 63-107.9.
- .13 (Continued)
- .14 In the State-only AFDC/V Program, the provisions of Section 22-072 are limited and modified by Section 41-609.*
- .2 (Continued)
- .3 If timely notice is not required under the provisions of Section 22-072.2, and the claimant requests a state hearing within ten days of the required adequate notice, aid shall be reinstated retroactively, according to the provisions of Section 22-072.5.
- .4 In computing the notice period required by Section 22-072.1, the ~~ten~~ 10-day period shall not include the date of mailing, or the date that the action is to take effect.
- .5 Except as provided in Sections 22-054.1/ and 22-072.67, ~~22-072.122 and 41-440.12.17~~ when the claimant files a request for a state hearing prior to the effective date of the notice of action, which is subject to Section 22-072.1, aid shall be continued in the amount that the claimant would have been paid if the proposed action were not to be taken, provided the claimant does not voluntarily and knowingly waive aid. This section shall not apply to Greater Avenues for Independence (GAIN) supportive services payments (see Section 42-750.7). In the Food Stamp Program, benefits shall be continued on the basis authorized immediately prior to the notice of adverse action.
- .6 (Continued)
- .7 (Continued)

.72 The claim has been denied or dismissed by the preliminary hearing process specified in Section 22-0~~7~~74.

Authority Cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10613, 11209, and 11511(a), Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 255.2(h)(2); 45 CFR 256.2(c); and 45 CFR 256.4(d).

Renumber Section 22-023 to Section 22-073 and amend; adopt new Section 22-073.36 to read:

22-0~~2~~73 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO  
THE STATE HEARING

22-0~~2~~73

.1 Upon receipt of a request for hearing or notice from the Department that a recipient has filed a request for a state hearing, the county shall provide aid pending the state hearing in accordance with Section 22-0~~2~~72, when entitlement exists.

.12 (Continued)

.124 Misdirected Requests

(a) (Continued)

(b) (Continued)

(c) The provisions of Sections 22-0~~2~~73.122(a) and (b) shall be applicable to misdirected requests.

.2 (Continued)

.23 After conducting the initial review, the county representative shall make a determination concerning the appropriateness of the county action and the need for and advisability of a hearing. Disagreements and misunderstandings shall be resolved quickly, at the lowest possible administrative level, thereby avoiding unnecessary hearings.

.231 (Continued)

(a) The county representative shall have the authority to make such a decision. The conditional withdrawal procedure described in Section 22-054.21 is usually appropriate in such instances. (Continued)

.3 (Continued)

.35 (Continued)

.36 Having the burden of going forward in the hearing to support its determination.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Renumber Section 22-024 to 22-074 and amend to read:

22-0~~2~~74 PRELIMINARY HEARING PROCEDURE (Continued)

22-0~~2~~74

- .3 Denial or dismissal of a claim by preliminary hearing shall terminate aid pending the state hearing. See Section 22-0~~2~~72.62.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.



Renumber Section 22-025 to Section 22-075 and amend to read:

22-0~~2~~75 DISMISSAL OF A PRELIMINARY HEARING (Continued)

22-0~~2~~75

- .2 The CWD shall immediately notify the Administrative Adjudications Division upon dismissing a preliminary hearing on any of the grounds specified in Section 22-0~~2~~75.1, and the county shall immediately implement its proposed action.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Renumber Section 22-026 to Section 22-076:

22-0~~2~~76 PROCEDURE AFTER THE PRELIMINARY HEARING (Continued)

22-0~~2~~76

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Renumber Section 22-027 to Section 22-077:

22-0~~2~~77 HEARING NOT HELD IN COUNTY RESPONSIBLE FOR AID  
(Continued)

22-0~~2~~77

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Renumber Section 22-028 to Section 22-078 and amend to read:

22-0~~2~~78 COMPLIANCE WITH STATE HEARING DECISIONS (Continued)

22-0~~2~~78

.5 (Continued)

.52 The time limitations for requesting a state hearing shall not be suspended during the period the Department is reviewing the compliance as specified in Section 22-0~~2~~78.6.

.53 (Continued)

.6 Upon receipt of the compliance report submitted under Section 22-0~~2~~78.2, the Department shall make a determination regarding the appropriateness of the compliance.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Renumber Section 22-010 to Section 22-085 and amend; Repeal Section 22-010.231; and adopt new Sections 22-085.12 and .13 to read:

22-01085 AUTHORIZED REPRESENTATIVE

22-01085

.1 The claimant may authorize a ~~representative~~ person to represent him/her during all aspects of the hearing process by signing and dating a written statement to that effect or by stating at the hearing that the person is so authorized. If the claimant is not present at the hearing, the written statement authorizing a representative to act on behalf of the claimant for hearing purposes shall be signed and dated by the claimant on or after the date of the action or inaction with which the claimant is dissatisfied.

.11 The authorization may be limited in scope or duration by the claimant, and may be revoked by the claimant at any time. The authorization shall be presumed to be a valid authorization. Such presumption is rebuttable.

.12 If the claimant is not present at the hearing and the written authorization does not meet the requirements set forth in Section 22-085.1, the Administrative Law Judge may proceed with the hearing if the circumstances indicate that the claimant wishes to proceed with the hearing process. In such cases, an amended authorization shall be submitted after the hearing as described in Sections 22-085.22 and .221.

HANDBOOK BEGINS HERE

.13 The above requirements are for hearing purposes only. For pre-hearing requirements and the release of information to authorized representatives, see Section 19-005.

HANDBOOK ENDS HERE

.2 (Continued)

.23 If, at the hearing, the person cannot swear or affirm under penalty of perjury that the claimant has authorized him/her to act as the claimant's authorized representative because the claimant is incompetent, in a comatose condition, suffering from amnesia or a similar condition, the hearing may proceed at the Administrative Law Judge's discretion if the person is a relative, or a person who has knowledge of the claimant's circumstances and who completed and signed the Statement of Facts on the claimant's behalf.

*1231 This person shall also sign a declaration under penalty of perjury describing the claimant's condition and further declaring that he/she is acting in the best interests of the claimant.*

.3 (Continued)

.4 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554, 10950 and 10955, Welfare and Institutions Code and 45 CFR 205.10.

Amend title of Section 22-107 to read:

22-107 COUNTY DEPARTMENT OR ~~STATE~~ CALIFORNIA DEPARTMENT OF  
SOCIAL SERVICES REVIEW (Continued)

22-107

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend title of Section 22-113 and .1 to read:

22-113 ~~STATE~~ CALIFORNIA DEPARTMENT OF SOCIAL SERVICES RESPONSIBILITY 22-113

.1 (Continued)

HANDBOOK BEGINS HERE

- .11 The review by the Department is conducted by the Public Inquiry and Response Unit. A request for review is to be distinguished from the preliminary hearing procedure described in Section 22-0274.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.



# EMERGENCY

## STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

### NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

Original  
For use by Secretary of State only

STD. 400 (REV. 2-91)

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (If any)  
RDB#1294-37

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 95-0419-03E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

1995 APR 19  
OFFICE OF ADMINISTRATIVE LAW  
MAY - 1 1995  
Office of Administrative Law

FILED  
In the office of the Secretary of State  
of the State of California

MAY 1 1995

At 4:23 O'clock P.M.  
BILL JONES, Secretary of State

By Rolando Lomick  
Deputy Secretary of State

NOTICE

REGULATIONS

#### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Darcas v. Woods	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified	<input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

#### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

##### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND Section 44-352.4
	REPEAL

##### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

##### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

##### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☒ Effective other (Specify) May 1, 1995

##### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

##### 6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER  
657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

DATE  
APR 10 1995

TYPED NAME AND TITLE OF SIGNATORY  
Eloise Anderson, Director

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 44-352.4 to read:

.4 Methods of Recovery

All of the following methods may be used concurrently. However, those methods should be used that will result in the maximum recovery.

.41 Grant Adjustment ~~/411~~

If the overpayment is to be recovered by grant adjustment, the following method shall be used:

~~/41~~ .411 Step One

Determine the sum of the FFAU's total available income and liquid resources in the payment month by adding together the following:

(1a) Agency Error

For overpayments caused by agency error, ~~and which have been or will be recovered on or after January 1, 1986/~~

(1)

~~determine the sum of~~ The FFAU's total grant amount for the payment month before overpayment adjustments, plus

(2)

The FFAU's gross earned income less:

(i)

Any dependent care disregards as specified in Section 44-113.217, and less

(ii)

The standard work expense disregard as specified in Section 44-113.214,

(iii)

Any deduction necessary to meet the unmet needs of an ineligible alien child as specified in Section 44-113.14, plus

(3)

Other net nonexempt income, and plus

(4)

The FFAU's liquid resources.

(2b) Other

For all other overpayments,

(1)

~~determine the sum of~~ The FFAU's total grant amount for the payment month before overpayment adjustments, plus

(2)

The FFAU's gross earned income,

(i)

Without application of earned income the dependent care nor the standard work expense disregards,

(ii)

Less any deduction necessary to meet the unmet needs of an ineligible alien child as specified in Section 44-113.14, plus

Compare the amount from Step One to the amount from Step Two. When the amount from Step One is larger than the amount from Step Two, grant adjustment shall occur.

When the MAP has been prorated, as in a beginning month, then the prorated amount shall be used in Step Two.

.90, and round to the next lower dollar.

.95, and round to the next lower dollar.

The amount of the adjustment shall be the difference between the amount of the adjustment and the amount of the adjustment. The amount of the adjustment shall be the difference between the amount of the adjustment and the amount of the adjustment.

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The amount of the adjustment shall be the difference between the amount of the adjustment and the amount of the adjustment. The amount of the adjustment shall be the difference between the amount of the adjustment and the amount of the adjustment.

Determine the required need allowance by multiplying the MAP amount for the AU plus any special needs by:

The WBAU's liquid resources.

Other net nonexempt income, and plus

.413 Step Three

(a) Agency Error  
(b) Other  
(c) Prorated

11

10

11

10

12

11

10 .412 Step Two

(4)

(3)

- .414 Step Four      Determine the maximum adjustment amount by subtracting the amount in Step Two from the amount in Step One.
- .415 Step Five      The overpayment shall be adjusted from the current aid payment.
- (a) Less      When the overpayment balance is less than the maximum adjustment amount, the entire overpayment balance shall be adjusted.
- (b) More      When the overpayment balance is more than the maximum adjustment amount, the maximum amount shall be adjusted and the remaining overpayment balance shall be applied to succeeding months and the adjustment process shall be repeated.
- (c) Aid Payment      When the aid payment is less than the maximum adjustment amount, then the entire aid payment shall be adjusted. Any remaining overpayment balance shall be applied to succeeding months and the adjustment process shall be repeated.  
                                  (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11017, 11155, 11155.1, 11155.2, 11257, 11450, 11452, and 11453, Welfare and Institutions Code; 45 CFR 233.20(a)(3)(i)(B) ~~and 45 CFR 233.20(a)(3)(i)(B)~~; Darces v. Woods (1984) 35 Cal.3d 871:201 Cal.Rptr. 807; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.



# EMERGENCY

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW  
NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

## AGENCY

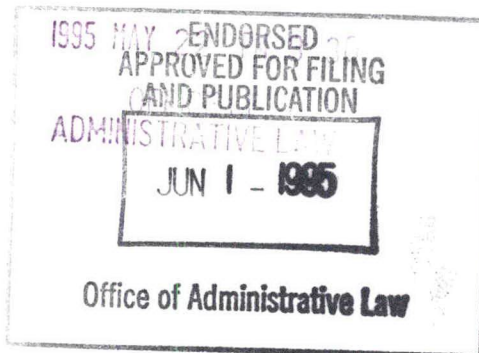
California Department of Social Services

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 95-0522-04E	AGENCY FILE NUMBER (if any) 0195-01	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

JUN 11 1995

At 4:10 O'clock P.M.  
BRIAN JONES, Secretary of State

By *Calvin L. Jones*  
Deputy Secretary of State

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE IHSS California Partnership for Long-Term Care		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

#### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT 30-753(c)(1) and 30-773.6(m) et seq.
SECTIONS AFFECTED	AMEND
	REPEAL

#### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

#### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not applicable.

#### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) \_\_\_\_\_

#### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

#### 6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

#### TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

MAY 22 1995



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READoption**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 30-753(c) to read:

30-753 SPECIAL DEFINITIONS

30-753

(a) (Continued)

(b) (Continued)

(c) (1) Certified Long-Term Care Insurance Policy or Certificate or certified policy or certificate means any long-term care insurance policy or certificate, or any health care service plan contract covering long-term care services, which is certified by the California Department of Health Services as meeting the requirements of Welfare and Institutions Code Section 22005.

(12) County Plan (Continued)

(23) CRT or Cathode Ray Tube (Continued)

(34) CRT County (Continued)

Authority Cited: Sections 10553, 10554, ~~and~~ 12301.1, and 22009(b), Welfare and Institutions Code/ and Chapter 939, Statutes of 1992.

Reference: Sections 10554, 12300(c), 12301, 12304, 12306, 12308, 13302, 14132.95, 14132.95(e), ~~and~~ 14132.95(f), and 22004, Welfare and Institutions Code.



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

For use by Secretary of State only

AGENCY  
California Department of Social ServicesAGENCY FILE NUMBER (if any)  
RDB#0894-27OAL FILE  
NUMBERSNOTICE FILE NUMBER  
Z95-0120-03

REGULATORY ACTION NUMBER

95-0502-060

EMERGENCY NUMBER  
94-1223-02E

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

NOTICE

REGULATIONS

Office of Administrative Law

FILED

in the office of the Secretary of State  
of the State of California

JUN 6 1995

At 4:19 O'clock P.M.  
BILL JONES, Secretary of State

Deputy Secretary

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Yslas v. Anderson Regulations		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT 50-024
SECTIONS AFFECTED	AMEND
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

No 15-day renote (Nonsubstantive modifications at Sections 50-024.745 and .81)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify) \_\_\_\_\_

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

Frank Vitulli, Chief, Regulations Development

## TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

APR 28 1995

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

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**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

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**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

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"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Sections 50-024.745 (handbook) and .81 to read:

50-024 YSLAS V. ANDERSON RETROACTIVE LAWSUIT

50-024

HANDBOOK BEGINS HERE

.1 Background

On December 21, 1990, the Yslas v. Anderson Lawsuit was filed with the Sacramento County Superior Court. This lawsuit challenged the California Department of Social Services' (CDSS) policy of allowing county welfare departments (CWDs) to deny, reduce or stop payments for Greater Avenues for Independence (GAIN) Program supportive services because participants received an educational loan or grant. On March 30, 1994, the Sacramento County Superior Court signed the Settlement and Consent Decree. Under the terms of the Yslas v. Anderson Settlement and Consent Decree, plaintiffs and CDSS agreed that the following is the correct policy for CWDs to follow concerning the treatment of financial aid: CWDs shall obtain the prior, voluntary agreement of the GAIN participant before using student financial aid to deny, reduce or stop GAIN supportive services payments. In addition, the Yslas v. Anderson Settlement and Consent Decree specifies that GAIN participants whose supportive services payments were denied, reduced or stopped, due to the receipt of financial aid from October 19, 1987 through August 31, 1993, are entitled to retroactive benefits.

HANDBOOK ENDS HERE

.2 Definitions

For the purpose of these regulations:

- a. (Reserved)
- b. (Reserved)
- c.
  - (1) "Category 1 eligible claimant" means any current or former GAIN participant whose supportive services payments were reduced or denied during the retroactive period because of an educational loan.
  - (2) "Category 2 eligible claimant" means any current or former GAIN participant who signed a promissory note to repay the county for supportive services payments received during the retroactive period pending receipt of an educational grant or educational loan.
  - (3) "Category 3 eligible claimant" means any current or former GAIN participant whose supportive services payments were reduced or denied during the retroactive period because of an educational grant he or she received to attend an educational or vocational training program, unless he or she agrees the funds were actually available for those supportive services.

- (4) "Claim period" means the period from January 15, 1995 through April 14, 1995 during which a potentially eligible claimant may file a claim under the Yslas v. Anderson Settlement.
- (5) "Corrective underpayment" means the retroactive payment of supportive services inappropriately withheld from an eligible claimant because of receipt or pending receipt of an educational loan or grant.
- (6) "CWD" means County Welfare Department.
- d. (Reserved)
- e. (Reserved)
- f. (1) "Five standard languages" means Spanish, Vietnamese, Laotian, Chinese and Cambodian.
- (2) "Four standard Asian languages" means Vietnamese, Laotian, Chinese and Cambodian.
- g. (1) "GEN 1172 (5/93) Court Case: Yslas v. Anderson - Report A" means the form used by CWDs to report statistical data regarding the claims filed and paid under this lawsuit.
- (2) "GEN 1172 (5/93) Court Case: Yslas v. Anderson - Report B" means the form used by CWDs to report data regarding their use of the TEMP GAIN 56A (8/93), (Student Financial Aid Statement, GAIN Supportive Services) form, as required by the Yslas v. Anderson Settlement and Consent Decree.
- h. - m. (Reserved)
- n. (1) "NOA" means a notice of action that is considered to be adequate within the meaning of Section 22-021.
- o. - q. (Reserved)
- r. (1) "Responsible CWD" means the county welfare department GAIN office that took an action on which an eligible claimant's claim is based.
- (2) "Retroactive period" means the period from October 19, 1987 through August 31, 1993.
- s. (Reserved)
- t. (1) "TEMP GAIN 84 (11/94), Informing Notice" means the document mailed by the CWD to inform potential claimants of possible corrective underpayments resulting from the Yslas v. Anderson Settlement and Consent Decree.

- (2) "TEMP GAIN 85 (1/95), Claim Form" means the document used by claimants to file a claim based on the Yslas v. Anderson Settlement and Consent Decree.
- (3) "TEMP GAIN 88 (11/94), Informing Poster" means the document that is posted to notify potential claimants of possible corrective underpayments resulting from the Yslas v. Anderson Settlement and Consent Decree.

u. - z. (Reserved)

### .3 Informing Eligible Claimants

#### HANDBOOK BEGINS HERE

#### .31 CDSS responsibilities. CDSS shall:

- .311 Print the TEMP GAIN 88 (Informing Poster) in English with bullets in the five standard languages.
- .312 Provide CWDs with:
  - (a) A reproducible copy of the TEMP GAIN 84 (Informing Notice) in English with bullets in the five standard languages.
  - (b) Reproducible copies of the TEMP GAIN 85 (Claim Form) in English and the five standard languages.
  - (c) Copies of NOA messages in English and reproducible copies of NOA forms in English and the five standard languages.
  - (d) Reproducible copies of the TEMP GAIN 88 (Informing Poster) with bullets in the five standard languages.
- .313 Mail copies of the TEMP GAIN 88 (Informing Poster) to legal aid and welfare rights organizations of plaintiffs' choice at least 10 days before the beginning of the claim period.
  - (a) Plaintiffs' counsel shall provide CDSS with the mailing labels not to exceed 400.
- .314 Provide a public service announcement, to be broadcast at no charge to CDSS, informing the public of the opportunity to claim corrective underpayments.

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#### .32 Included CWDs.

- .321 All CWDs shall fully implement the provisions of Section 50-024.
  - (a) No CWDs are excluded from implementation of the Settlement and Consent Decree.

.33 CWD responsibilities. CWDs shall:

- .331 Reproduce an adequate supply of the TEMP GAIN 84 (Informing Notice) in English with bullets in the five standard languages.
- (a) On the TEMP GAIN 84 (Informing Notice), CWDs shall specify the county office address and phone number that potential claimants are to contact or call to obtain a TEMP GAIN 85 (Claim Form).
- .332 Notify potentially eligible claimants by January 5, 1995 using one of the following methods:
- (a) CWDs shall mail a TEMP GAIN 84 (Informing Notice) to all current AFDC recipients, by means of a CA 7 stuffer or similar mailing, or
- (b) CWDs shall mail a TEMP GAIN 84 (Informing Notice) to all individuals who were GAIN participants from October 19, 1987 through August 31, 1993.
- (1) CWDs shall maintain a record of all former GAIN participants to whom notices were mailed.
- .333 Place TEMP GAIN 88 (Informing Poster) in conspicuous locations in all CWD offices, GAIN offices and Food Stamp issuance offices on the first day of the claim period.
- (a) The TEMP GAIN 88 (Informing Poster) shall be displayed from January 15, 1995 until the close of business April 14, 1995.
- (b) On the TEMP GAIN 88 (Informing Poster), CWDs shall specify the county office address and phone number that potential claimants are to contact to obtain a TEMP GAIN 85 (Claim Form).
- .334 Provide TEMP GAIN 88 (Informing Poster) to all public and private colleges, which are known to CWDs to have enrolled current or former GAIN participants, by January 5, 1995.
- (a) On the TEMP GAIN 88 (Informing Poster), CWDs shall specify the county office address and phone number that potential claimants are to contact to obtain a TEMP GAIN 85 (Claim Form).

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- (b) CDSS and/or CWDs cannot require public or private educational institutions to display the TEMP GAIN 88 (Informing Poster).

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- .335 Reproduce an adequate supply of the TEMP GAIN 85 (Claim Form) in English and the five standard languages.
  - .336 Mail a TEMP GAIN 85 (Claim Form) within five working days following a request by anyone who calls the phone number specified on the TEMP GAIN 84 (Informing Notice) and TEMP GAIN 88 (Informing Poster).
  - .337 Give a TEMP GAIN 85 (Claim Form), immediately upon request during normal business hours, to anyone who goes to the office specified on the TEMP GAIN 84 (Informing Notice) and the TEMP GAIN 88 (Informing Poster) and requests a claim form.
    - (a) CWDs shall maintain an adequate supply of the TEMP GAIN 85 (Claim Form) on hand for distribution to potential claimants.
  - .338 Specify on the TEMP GAIN 85 (Claim Form) the address where claimants are to return the completed claim form.
- .4 Application for Corrective Underpayment
- .41 Potential Category 1 and Category 3 eligible claimants shall:
    - .411 Complete and sign, under the penalty of perjury, a TEMP GAIN 85 (Claim Form).
    - .412 Submit the TEMP GAIN 85 (Claim Form) on or before the end of the claim period to the responsible CWD.
      - (a) If mailed, postmark must be no later than April 14, 1995.
      - (b) During the claim period, claimants shall be permitted to resubmit a claim that was previously denied due to being incomplete.
    - .413 Submit a completed TEMP GAIN 85 (Claim Form) to each responsible CWD if there was more than one responsible CWD.
    - .414 Provide necessary additional information, documentation or clarification upon request from a CWD.
  - .42 CWD responsibilities. CWDs shall:
    - .421 Stamp the TEMP GAIN 85 (Claim Form) with the date it was received by the CWD.
      - (a) If the date of receipt cannot be determined by a date stamp, the date of receipt shall be the date the claimant signed the TEMP GAIN 85 (Claim Form).
    - .422 Notwithstanding the date specified in .421 above, process all claim forms postmarked on or before April 14, 1995.



- .423 If the TEMP GAIN 85 (Claim Form) is postmarked after April 14, 1995, issue NOA M50-024D (Deny Claim) within 30 days following the date of receipt of the claim.
- (a) The CWD shall retain envelopes postmarked after April 14, 1995 to verify the date the claim was submitted.
- .424 Retain all records which contain documents relevant to the Yslas v. Anderson Lawsuit for three years from the date CDSS submits the last expenditure report for federal reimbursement.
- (a) Documents included are those used to determine eligibility for the class (including denials) and those used to determine the amount of corrective underpayments, including case records, payment records, assistance claims, reimbursement claims, claim verification and any other documents related to the Yslas v. Anderson Lawsuit.
- .425 Determine the responsible CWD.
- (a) If the CWD receiving the TEMP GAIN 85 (Claim Form) determines that it is the responsible CWD, the CWD shall process the TEMP GAIN 85 (Claim Form) in accordance with Section 50-024.5.
- (1) "Responsible CWD" is defined in Section 50-024.2r.(1).
- (b) If the CWD receiving the TEMP GAIN 85 (Claim Form) determines that it is not the responsible CWD, the receiving CWD shall issue NOA M50-024D (Deny Claim) and forward the TEMP GAIN 85 (Claim Form) to the responsible CWD within 30 days from receipt of the claim.
- (1) The receiving CWD shall inform the claimant on NOA M50-024D (Deny Claim) that the TEMP GAIN 85 (Claim Form) has been forwarded to the responsible CWD for processing.
- (2) The responsible CWD shall process the claim in accordance with Section 50-024.5.
- (A) Notwithstanding Section 50-024.423, responsible CWDs shall process all claims that are forwarded from a receiving CWD, even if the claims are received from the receiving CWD after the end of the claim period.
- (3) If the responsible CWD cannot be determined, the receiving CWD shall issue NOA M50-024D (Deny Claim) within 30 days following receipt of the claim.



- (A) The CWD shall indicate on the NOA that the claimant must file the claim with the responsible CWD.

.5 Processing Claim Forms

- .51 For Category 1 and 3 eligible claimants, the responsible CWD shall review each TEMP GAIN 85 (Claim Form) for completeness. The TEMP GAIN 85 (Claim Form) shall be considered complete when the following information is provided by the claimant:
- .511 Answers to the qualifying eligible claimant questions on the TEMP GAIN 85 (Claim Form).
  - .512 Claimant's case name(s) used during retroactive period.
  - .513 Claimant's date of birth.
  - .514 Claimant's social security number.
  - .515 County or counties of residence during retroactive period.
  - .516 Claimant's current mailing address.
  - .517 Claimant's signature.
  - .518 The following information shall be provided by the claimant on the TEMP GAIN 85 (Claim Form) to the extent possible:
    - (a) The AFDC or GAIN case number.
    - (b) Phone number.
    - (c) Date(s) for which the claim is being filed.
    - (d) The name of the school or educational program.
- .52 If the claim is complete, as specified in Section 50-024.51, and the claimant meets the definition of a Category 1 or 3 eligible claimant, as specified in Section 50-024.2(c), the CWD shall complete processing the claim within 60 days after receipt of the claim.
- .521 If the information on the claim form and in the case file is sufficient, the CWD shall calculate the corrective underpayment, in accordance with Section 50-024.7 and issue a check with NOA M50-024A (Approve Claim) within the 60-day time frame specified above.
- (a) CWDs shall indicate on the NOA when the check will be issued if unable to issue the check for the corrective underpayment with the NOA.

- .522 The corrective underpayment shall be equal to the amount of supportive services payments that were reduced or denied because the claimant received an educational grant or loan, plus interest, as determined in accordance with Section 50-024.74.
- .523 In the absence of evidence to the contrary, CWDs shall accept self-certification from the claimant, signed under the penalty of perjury, to satisfy documentary requirements in the event such documentation is not available.
- .524 The CWD shall verify documentation whenever authenticity is in doubt.
- .53 If the claimant is NOT an eligible claimant, the CWD shall issue NOA M50-024D (Deny Claim) within 60 days after the claim was received.
  - .531 The CWD shall preprint the GAIN 50 (6/92), (Your GAIN Hearing Rights), to the back of the NOA or attach a copy of the GAIN 50 to the NOA.
- .54 If additional information is needed the CWD shall issue NOA M50-024B (Request Claim Information) within 30 days after receipt of the claim.
  - .541 The CWD shall indicate on the NOA that claimants have 30 days from the date of the NOA to respond to the request for additional information.
  - .542 The CWD shall complete processing a claim within 60 days after receiving the additional information.
  - .543 If the claimant meets the definition of a Category 1 or 3 eligible claimant, the CWD shall calculate the corrective underpayment, in accordance with Section 50-024.7, and issue a check with NOA M50-024A (Approve Claim) within the 60-day time frame specified in .542 above.
  - .544 The CWD shall issue NOA M50-024D (Deny Claim) if the additional information does not establish the claimant as a Category 1 or 3 eligible claimant.
  - .545 The CWD shall issue NOA M50-024D (Deny Claim) if the claimant does not respond within the time specified in .541 above.

.6 Case Review - Category 2 Eligible Claimants

- .61 CWDs shall identify all Category 2 eligible claimants, as defined in Section 50-024.2(c)(2).
  - .611 CWDs shall not require potential Category 2 eligible claimants to submit a claim form.
- .62 If the information in the case file is sufficient and the participant meets the definition of a Category 2 eligible claimant, the CWD shall complete the case review, calculate the corrective underpayment and issue the corrective underpayment check with NOA M50-024A (Approve Claim) before April 14, 1995.

- .621 The corrective underpayment shall be equal to the amount paid by the Category 2 eligible claimant to the CWD under the promissory note for supportive services received during the retroactive period.
- .622 The CWD shall indicate on the NOA when the corrective underpayment check will be issued if the CWD is unable to issue the corrective underpayment check with the NOA.
- .623 In the absence of evidence to the contrary, CWDs shall accept self-certification from the eligible claimant, signed under the penalty of perjury, to satisfy documentary requirements in the event such documentation is not available.
- .624 CWDs shall include interest, as specified in Section 50-024.7, in the calculation of corrective underpayments for eligible claimants not on aid at the time payment is authorized.
- .63 CWDs shall cancel the balance due on all promissory notes issued because a GAIN participant received an educational loan or grant.
- .64 If the information in the case file is not sufficient to complete the review and calculate the corrective underpayment, the CWD shall issue NOA M50-024C (Request Case Information) before February 14, 1995 to request the needed information.
  - .641 The CWD shall indicate on the NOA that participants shall have 30 days from the date of the NOA or until the end of the claim period, whichever is longer, to submit the needed information.
  - .642 The CWD shall complete the case file review and issue any corrective underpayment with NOA M50-024A (Approve Claim) within 60 days following receipt of the needed information from the participant.
  - .643 If the participant does not submit the needed information before the deadline specified on the NOA, the CWD shall discontinue its review of the case file and shall not make any corrective underpayments to the participant.
    - (a) The CWD shall note in the case file the reason why the review was discontinued.

.7 Computation of Corrective Underpayments

- .71 There is no minimum amount an eligible claimant may receive as a corrective underpayment.
- .72 The claimant shall not be entitled to corrective underpayments for any portion of his/her supportive services payments that were previously repaid under another lawsuit.

- .73 CWDs shall balance a corrective underpayment against an outstanding overpayment as follows:
- .731 CWDs shall balance corrective underpayments for child care services with outstanding child care overpayments as specified in Section 42-751.4.
  - .732 CWDs shall balance corrective underpayments for transportation or ancillary services with outstanding transportation or ancillary services overpayments as specified in Section 42-751.4.
  - .733 CWDs shall attempt to obtain the written agreement of the eligible claimant to balance a corrective underpayment and outstanding overpayment in the following instances:
    - (a) A transportation or ancillary services corrective underpayment with a child care overpayment.
    - (b) A child care corrective underpayment with a transportation or ancillary services overpayment.
    - (c) A child care, transportation, or ancillary services corrective underpayment with an AFDC cash aid overpayment.
- .74 CWDs shall pay interest to those eligible claimants who are not on aid at the time payment is authorized. To pay interest, CWDs shall:
- .741 Begin interest in the month subsequent to the last month of the supportive services payment reduction or denial or the last month when payment for a promissory note was received.
  - .742 Determine the month in which payment is authorized.
  - .743 To determine the appropriate interest amount and corrective underpayment:
    - (a) determine the Initial Interest Month (the month following the last month of the supportive services reduction or denial or the last month when payment for a promissory note was received),
    - (b) determine the Payment Authorization Month (the month the corrective underpayment will be authorized),
    - (c) determine the interest percentage factor on the "Interest Chart for Yslas v. Anderson Corrective Underpayments" (see handbook Section 50-024.745) where the Initial Interest Month and Payment Authorization Month dates meet,
    - (d) multiply the amount of supportive services reduced or denied by the interest percentage factor, and

- (e) add the amount of supportive services reduced or denied to the interest to be paid to determine the corrective underpayment.

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.744 EXAMPLE: A CWD determines that an eligible claimant who is no longer on aid had her child care reduced \$300.00 from January 1, 1988 through April 30, 1988 because she received an educational loan.

To Calculate the Corrective Underpayment:

(a)	Initial Interest Month - May 1988	
(b)	Payment Authorization Month - January 1995	
	Amount of Supportive Services Reduced or Denied	\$300.00
(c)	Interest Percentage Factor	X .4975
(d)	Interest To Be Paid	<u>+\$149.25</u>
(e)	Corrective Underpayment	\$449.25

.745 Interest Chart for Yslas v. Anderson Corrective Underpayments

Initial Interest Month	Payment Authorization Month					
	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Oct-87	.5383	.5467	.5550	.5633	.5717	.5800
Nov-87	.5325	.5409	.5492	.5575	.5659	.5742
Dec-87	.5266	.5350	.5433	.5516	.5600	.5683
	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-88	.5208	.5292	.5375	.5458	.5542	.5625
Feb-88	.5150	.5234	.5317	.5400	.5484	.5567
Mar-88	.5091	.5175	.5258	.5341	.5425	.5508
Apr-88	.5033	.5117	.5200	.5283	.5367	.5450
May-88	.4975	.5059	.5142	.5225	.5309	.5392
Jun-88	.4916	.5000	.5083	.5166	.5250	.5333
Jul-88	.4858	.4942	.5025	.5108	.5192	.5275
Aug-88	.4800	.4884	.4967	.5050	.5134	.5217

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Sep-88	.4741	.4825	.4908	.4991	.5075	.5158
Oct-88	.4683	.4767	.4850	.4933	.5017	.5100
Nov-88	.4625	.4709	.4792	.4875	.4959	.5042
Dec-88	.4566	.4650	.4733	.4816	.4900	.4983

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-89	.4508	.4592	.4675	.4758	.4842	.4925
Feb-89	.4450	.4534	.4617	.4700	.4784	.4867
Mar-89	.4391	.4475	.4558	.4641	.4725	.4808
Apr-89	.4333	.4417	.4500	.4583	.4667	.4750
May-89	.4275	.4359	.4442	.4525	.4609	.4692
Jun-89	.4216	.4300	.4383	.4466	.4550	.4633
Jul-89	.4158	.4242	.4325	.4408	.4492	.4575
Aug-89	.4100	.4184	.4267	.4350	.4434	.4517
Sep-89	.4041	.4125	.4208	.4291	.4375	.4458
Oct-89	.3983	.4067	.4150	.4233	.4317	.4400
Nov-89	.3925	.4009	.4092	.4175	.4259	.4342
Dec-89	.3866	.3950	.4033	.4116	.4200	.4283

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-90	.3808	.3892	.3975	.4058	.4142	.4225
Feb-90	.3750	.3834	.3917	.4000	.4084	.4167
Mar-90	.3691	.3775	.3858	.3941	.4025	.4108
Apr-90	.3633	.3717	.3800	.3883	.3967	.4050
May-90	.3575	.3659	.3742	.3825	.3909	.3992
Jun-90	.3516	.3600	.3683	.3766	.3850	.3933
Jul-90	.3458	.3542	.3625	.3708	.3792	.3875

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Aug-90	.3400	.3484	.3567	.3650	.3734	.3817
Sep-90	.3341	.3425	.3508	.3591	.3675	.3758
Oct-90	.3283	.3367	.3450	.3533	.3617	.3700
Nov-90	.3225	.3309	.3392	.3475	.3559	.3642
Dec-90	.3166	.3250	.3333	.3416	.3500	.3583

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-91	.3108	.3192	.3275	.3358	.3442	.3525
Feb-91	.3050	.3134	.3217	.3300	.3384	.3467
Mar-91	.2991	.3075	.3158	.3241	.3325	.3408
Apr-91	.2933	.3017	.3100	.3183	.3267	.3350
May-91	.2875	.2959	.3042	.3125	.3209	.3292
Jun-91	.2816	.2900	.2983	.3066	.3150	.3233
Jul-91	.2758	.2842	.2925	.3008	.3092	.3175
Aug-91	.2700	.2784	.2867	.2950	.3034	.3117
Sep-91	.2641	.2725	.2808	.2891	.2975	.3058
Oct-91	.2583	.2667	.2750	.2833	.2917	.3000
Nov-91	.2525	.2609	.2692	.2775	.2859	.2942
Dec-91	.2466	.2550	.2633	.2716	.2800	.2883

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-92	.2408	.2492	.2575	.2658	.2742	.2825
Feb-92	.2350	.2434	.2517	.2600	.2684	.2767
Mar-92	.2291	.2375	.2458	.2541	.2625	.2708
Apr-92	.2233	.2317	.2400	.2483	.2567	.2650
May-92	.2175	.2259	.2342	.2425	.2509	.2592
Jun-92	.2116	.2200	.2283	.2366	.2450	.2533

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jul-92	.2058	.2142	.2225	.2308	.2392	.2475
Aug-92	.2000	.2084	.2167	.2250	.2334	.2417
Sep-92	.1941	.2025	.2108	.2191	.2275	.2358
Oct-92	.1883	.1967	.2050	.2133	.2217	.2300
Nov-92	.1825	.1909	.1992	.2075	.2159	.2242
Dec-92	.1766	.1850	.1933	.2016	.2100	.2183

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-93	.1708	.1792	.1875	.1958	.2042	.2125
Feb-93	.1650	.1734	.1817	.1900	.1984	.2067
Mar-93	.1591	.1675	.1758	.1841	.1925	.2008
Apr-93	.1533	.1617	.1700	.1783	.1867	.1950
May-93	.1475	.1559	.1642	.1725	.1809	.1892
Jun-93	.1416	.1500	.1583	.1666	.1750	.1833
Jul-93	.1358	.1442	.1525	.1608	.1692	.1775
Aug-93	.1300	.1384	.1467	.1550	.1634	.1717
<u>Sep-93</u>	<u>.1241</u>	<u>.1325</u>	<u>.1408</u>	<u>.1491</u>	<u>.1575</u>	<u>.1658</u>

HANDBOOK ENDS HERE

- .75 For the purpose of determining continuing eligibility and the amount of assistance for the AFDC Program, CWDs shall not consider a corrective underpayment as income nor as a resource in the month paid nor in the following month.
- .76 For the Food Stamp Program, a retroactive corrective underpayment shall be excluded as income for all Food Stamp households and excluded as a resource for categorically eligible Food Stamp households as long as they remain eligible for AFDC.

.8 Statistical Reports

- .81 CWDs shall submit the GEN 1172 (5/93) Court Case: Yslas v. Anderson-Report A no later than ~~March 31~~ June 15, 1995 to the CDSS Statistical Services Bureau.
- .82 CWDs shall report data on the disposition of all claims received during the claim period, from January 15, 1995 through April 14, 1995.



.83 The report specified in Section 50-024.82 above shall include:

.831 The total number of:

- (a) TEMP GAIN 85s (Claim Forms) mailed by CWD.
- (b) TEMP GAIN 85s (Claim Forms) handed out by CWD.
- (c) TEMP GAIN 85s (Claim Forms) received by CWD.
- (d) Claims approved.
- (e) Claims denied. CWDs shall include the number of claims denied for each of the following reasons:
  - (1) Untimely. Includes TEMP GAIN 85s (Claim Forms) received after the claim period.
  - (2) Not an eligible claimant.
  - (3) Claim sent to wrong CWD and receiving CWD was not able to determine the responsible CWD to which the TEMP GAIN 85 (Claim Form) should be forwarded.
  - (4) Claim sent to wrong CWD and receiving CWD forwarded to responsible CWD.
  - (5) Incomplete. Includes claims that are not complete, as specified in Section 50-024.51, and there is no forwarding address to obtain the additional information needed; and incomplete claims for which additional information was requested but not received before the deadline specified on the NOA.
  - (6) Other.

.832 Total dollar amount of corrective underpayments paid (including interest).

.833 Total dollar amount of overpayments offset with corrective underpayments.

.84 The CWDs shall report to the CDSS Statistical Services Bureau the number of GAIN participants who agree to use their student financial aid to pay for their supportive services, participants who do not agree to use their financial aid to pay for their supportive services, and participants who rescinded their previous agreement to use their financial aid to pay for their supportive services.

.841 CWDs shall submit the above data on the GEN 1172 (5/93) Yslas v. Anderson-Report B, on a quarterly basis from July 1, 1994 through June 30, 1996.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Yslas v. Anderson, Sacramento County Superior Court, Case No. 365717, dated March 30, 1994; Yslas v. Anderson, Modification of Consent Decree, dated July 13, 1994; Yslas v. Anderson, Order Approving Modification of Consent Decree, dated September 26, 1994; and Yslas v. Anderson, Stipulation and Order, dated October 13, 1994; and Sections 11323.2 and 11323.4, Welfare and Institutions Code.

# NONSUBSTANTIVE

## STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

For use by Secretary of State only

AGENCY California Department of Social Services				AGENCY FILE NUMBER (if any) ORD #0495-08
OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER 95-0425-0312	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
For use by Office of Administrative Law (OAL) only				
NOTICE				
REGULATIONS				

FILED  
In the office of the Secretary of State  
of the State of California

JUN -7 1995

1995 APR 25 PM 2 24  
OFFICE OF ADMINISTRATIVE LAW  
APPROVED FOR FILING  
AND PUBLICATION  
JUN 7 1995At 3:17 o'clock p.m.  
Bill Jones, Secretary of StateBy *Barbara Cornick*  
Deputy**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE AFDC-FC Renumbering		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND 11-400, 11-401, 11-402, 11-403, 11-404, 11-405, 11-406, 11-407, 45-201, and 45-302
	REPEAL

2. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)			

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)		
4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)		
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify)
5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY		
<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

6. CONTACT PERSON Frank R. Vitulli, Chief, Office of Regulations Development	TELEPHONE NUMBER (916) 651-2586
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7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Eloise Anderson</i>	DATE 4/24/95
TYPED NAME AND TITLE OF SIGNATORY Eloise Anderson, Director	

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Sections 11-400(f)(6) and (i)(2) to read:

11-400 AFDC-FOSTER CARE RATES (Continued)

11-400

(f) (1) (Continued)

- (6) Formal Hearing - (A) An administrative review hearing conducted by an Administrative Law Judge to review a Report of Findings of an informal level hearing officer and group home program audit findings disputed by the group home provider in a Statement of Disputed Audit Findings not otherwise resolved at an informal hearing; or (B) An administrative review hearing to review the contention of a group home provider or foster family agency that does not concur with a rate setting protest decision letter pursuant to Sections 11-~~407~~430.4 through 11-~~407~~430.74.  
(Continued)

i. (1) (Continued)

- (2) Informal Hearing - An administrative review hearing conducted by a hearing officer to examine group home program audit findings disputed by the group home provider in a Statement of Disputed Audit Findings pursuant to Sections 11-~~407~~430.12 through 11-~~407~~430.146.

Authority Cited: Sections 10553, 10554, 11462(i) and (j), and 11466.1, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Section 1502(a)(1), Health and Safety Code, Section 3353 of the California Labor Code, Sections 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11234, 11235, 11236, 11400(h), 11460, 11462, 11462.03, 11466.1, 11466.2, 11466.22, 11466.3, 11466.31, 11466.33, 11466.34, 11468, 11468.6, and 18350, Welfare and Institutions Code, Assembly Bill 2129, Chapter 1089, Statutes of 1993, Senate Bill 415, Chapter 950, Statutes of 1993; The Classification of Group Home Program Under the Standardized Schedule of Rate System Report, August 30, 1989, and Title 8, California Code of Regulations, Section 11050, Industrial Welfare Commission Order 5-89.

Amend Section 11-401.312 to read:

11-401 FAMILY HOME RATES (Continued)

11-401

.3 Family Home Specialized Care Rate System

.31 Beginning July 1, 1984, counties with existing specialized care systems shall:

.311 (Continued)

.312 provide the Department with a description of their family home specialized care payment practices as required by Section 11-~~401~~425.15.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11468, Welfare and Institutions Code.

Amend Sections 11-402.411(c), .422(c), .433, .534(b), and .534(c)(2) to read:

11-402 GROUP HOME RATE SETTING (Continued)

11-402

.4 Deviations from Annual Rate Setting

.41 New Program

.411 An initial rate application from an existing provider for a new program shall include all required forms and information listed in Sections 11-402.351 through 11-402.356 with the following additional requirements: (Continued)

(c) The placement agency recommendation from the host or the primary placing counties as appropriate and as specified in Section 11-~~400~~425.12. (Continued)

.42 New Provider (Continued)

.422 An initial rate application from a new provider shall include all required forms and information listed in Sections 11-402.351 through 11-402.356 with the following additional requirements: (Continued)

(c) Placement agency recommendation from the host or the primary placing counties as appropriate and as specified in Section 11-~~400~~425.12. (Continued)

.43 Program Changes (Continued)

.433 A program change application projecting an increase of an RCL level to a group home program shall be accompanied by the placement agency recommendation, as specified in Section 11-~~400~~425.12 except the first RCL increase in the lifetime of a program shall not require the placement agency recommendation. (Continued)

.5 Program Audits (Continued)

.53 Conducting Program Audits (Continued)

.534 Exit Conference and Notification (Continued)

(b) A draft written summary of preliminary findings shall be provided at the exit conference. The exit conference shall be subject to the provisions of Section 11-~~407~~430.111.

(c) The audit report shall be mailed to the provider within 45 days after the exit conference. (Continued)

(2) The audit report shall be subject to the provisions of Section 11-~~407~~430.113.

Authority Cited: Sections 10553, 10554, 11462(j), 11466.1, and 11466.2, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 10852, 11460, 11462, 11462(a)(2) and (a)(3), 11462(i)(1)(B), 11462.03, 11466.1, 11466.2, 11466.3, 11466.4, 11466.22, 11466.25, 11466.31, 11466.32, 11466.33, 11466.34, 11466.35, 11466.36, 11467, 11468 through 11468.6 and 18350, Welfare and Institutions Code; Assembly Bill 2129, Chapter 1089, Statutes of 1993, Senate Bill 415, Chapter 950, Statutes of 1993; and The Classification of Group Home Programs Under the Standardized Schedule of Rate System Report, August 30, 1989.



Amend Section 11-403(h) (1) to read:

11-403 FOSTER FAMILY AGENCY RATES (Continued)

11-403

(h) Administrative Review Procedure

- (1) The administrative review procedure for foster family agencies shall be as specified in Section 11-~~407~~430.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11468 and 11468.2, Welfare and Institutions Code.

Renumber Section 11-404 to 11-415 and amend to read:

11-~~404~~415 INFANT SUPPLEMENT (Continued)

11-~~404~~415

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11468, Welfare and Institutions Code.

Renumber Section 11-405 to 11-420 and amend to read:

11-~~405~~420 SPECIAL NEED PAYMENTS (Continued)

11-~~405~~420

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11468, Welfare and Institutions Code.

Renumber Section 11-406 to 11-425 and amend to read:

11-~~406~~425 RESPONSIBILITIES OF COUNTY WELFARE DEPARTMENTS (Continued) 11-~~406~~425

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 11462(g)(2) and 11462(i)(2), Welfare and Institutions Code.

Renumber Section 11-407 to 11-430 and amend to read:

11-~~407~~430 AFDC-FOSTER CARE ADMINISTRATIVE REVIEW PROCEDURES

11-~~407~~430

- .1 Administrative Review of Departmental Audits for Group Home Programs and Foster Family Agencies. (Continued)
- .12 Statement of Disputed Audit Findings (Continued)
  - .127 A group home provider/foster family agency may appeal a determination by the Department that a Statement of Disputed Audit Findings has not been filed on a timely basis. An "Order to Show Cause" hearing solely on the timeliness issue shall be held before an Administrative Law Judge pursuant to Section 11-~~407~~430.5. The remedy for a group home provider/foster family agency in an "Order to Show Cause" hearing shall be limited to the filing of a timely Statement of Disputed Audit Findings pursuant to Section 11-~~407~~430.12. (Continued)
- .14 Informal Hearing (Continued)
  - .146 The Report of Findings shall be considered final unless the group home provider/foster family agency submits a written Request for Formal Hearing in accordance with Section 11-~~407~~430.15.
- .15 Request For Formal Hearing (Continued)
  - .153 The Request for Formal Hearing shall specify whether the requesting party is requesting an oral administrative hearing or an administrative hearing based upon the official record developed in accordance with Section 11-~~407~~430.144 without the taking of oral testimony or oral argument.
  - .154 The Request for Formal Hearing shall include a copy of the Statement of Disputed Issues filed pursuant to Section 11-~~407~~430.12 and the Report of Findings issued by the informal hearing officer. The Request for Formal Hearing shall be specific as to each audit finding which remains in dispute, setting forth the requestor's contention as to each disputed audit finding, the authority for each contention and the estimated amount or RCL point value for each disputed audit finding. The party filing the Request for Formal Hearing shall submit all supporting documentation relevant to the administrative review which may include the records maintained pursuant to Sections 11-402.521 through 11-402.523, payroll files and any other supporting documentation. (Continued)
- .17 Response Documents and Administrative Record (Continued)
  - .172 The administrative record shall include the documents specified in Sections 11-~~407~~430.12, 11-~~407~~430.15, and 11-~~407~~430.171, all applicable laws, regulations and procedures, and those matters of

which the Administrative Law Judge takes official notice. When an oral formal hearing is conducted, evidence received at that hearing will also be included in the administrative record.  
(Continued)

.18 Conduct A Formal Hearing

.181 When an oral administrative hearing has been requested or determined by the Administrative Law Judge to be appropriate, the hearing shall be conducted in accordance with Sections 11-~~407430~~.44 through 11-~~407430~~.74. The formal administrative hearing shall follow the procedures specified in Sections 11-~~407430~~.5 through 11-~~407430~~.74. (Continued)

.3 Protest Proceedings (Continued)

.33 A group home provider may appeal a determination by the Department that a written protest regarding a departmental rate setting procedure has not been filed on a timely basis. An "Order to Show Cause" hearing solely on the timeliness issue shall be held before an Administrative Law Judge pursuant to Section 11-~~407430~~.5. The remedy for a group home provider in an "Order to Show Cause" hearing shall be limited to the filing of a timely written protest pursuant to Section 11-~~407430~~.31.  
(Continued)

.4 Filing an Appeal and Developing the Record

.41 A group home provider/foster family agency that does not concur with the decision letter set forth in Section 11-~~407430~~.36 and requests a different rate shall file a written appeal with the Department within 60 days of receipt of the decision letter. The date of mailing of the appeal shall establish the filing date. (Continued)

.412 The written appeal shall specify whether the group home provider/foster family agency is requesting an oral administrative hearing, or an administrative hearing based upon the written record developed in accordance with Section 11-~~407430~~.42 without the taking of oral testimony or oral argument. (Continued)

.42 Developing the Written Record. (Continued)

.422 The Department's response shall be submitted by personal delivery or certified mail, domestic receipt requested, to the office and address specified in Section 11-~~407430~~.413. At the same time, the Department shall mail a copy via certified mail, domestic receipt requested, to the group home provider/foster family agency.

.423 The group home provider/foster family agency may submit a written rebuttal to the Department's response within 30 days of the receipt of the Department's response. The rebuttal shall be submitted as set forth in Section 11-~~407430~~.413.

.424 The Department may submit a written rebuttal to a rebuttal filed by the group home provider/foster family agency within 30 days of the receipt of the rebuttal. The Department's rebuttal shall be filed as set forth in Section 11-~~407~~430.422. (Continued)

.426 The written record shall include the documents discussed in Sections 11-~~407~~430.41 through 11-~~407~~430.425, all applicable laws and regulations, and those matters of which the Administrative Law Judge takes official or judicial notice. (When an oral administrative hearing is conducted, additional record material submitted for that administrative hearing will subsequently be included.) (Continued)

.5 Procedures Applicable to All Formal Administrative Hearings.

.51 The Administrative Law Judge on his/her own motion or the motion of any party may:

.511 Extend any time period in these appeal regulations for good cause, except the time period set forth in Section 11-~~407~~430.41 for the filing of an appeal. (Continued)

.6 Additional Procedures Applicable to Oral, Formal Administrative Hearings (Continued)

.666 The group home provider/foster family agency shall not be called to testify during the Department's initial presentation pursuant to Section 11-~~407~~430.671. A group home provider/foster family agency who thereafter fails to testify in its own behalf, may be called and examined as if under cross examination. (Continued)

.7 Decision Process (Continued)

.72 Within 120 days after submission of the Administrative Law Judge's proposed decision, the Director shall: (Continued)

.723 Refer the matter to the same or a different Administrative Law Judge to take additional evidence.

(a) If the case is so assigned, the Administrative Law Judge shall, within 90 days, prepare a proposed decision, based upon the additional evidence and the documentary and electronically recorded record of the prior administrative hearing. The Director may then take one of the actions described in Section 11-~~407~~430.72 in regard to the new proposed decision. The Director may return a proposed decision only twice on the same appeal.

Authority Cited: Sections 10553, 10554, 11466.4, and 11468, Welfare and Institutions Code.

Reference: Sections 11466.4, 11466.6, 11468, 11468.1, 11468.2, 11468.3, 11468.4, 11468.5, and 11468.6, Welfare and Institutions Code; Assembly Bill 2129, Chapter 1089, Statutes of 1993, Senate Bill 415, Chapter 950, Statutes of 1993; and Sections 11510, 11512, and 11513, Government Code.

Amend Section 45-201.2 to read:

45-201 GENERAL AFDC-FC REQUIREMENTS (Continued)

45-201

- .2 The AFDC-FC rate as determined in Chapter 11-400, including amounts for specialized care, shall constitute the need standard for a child receiving AFDC-FC and shall be greater than the child's net nonexempt income as determined in Chapter 44-100. Income received by the child's parents shall not be used to determine the AFDC-FC aid payment unless the parents make their income and/or income the parents receive on behalf of the child available to meet the child's needs. See Section 11-~~40~~4415 for special need payments.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11008.15 and 11155.5, Welfare and Institutions Code.



Amend Sections 45-302.212 and 45-302.62 to read:

45-302 PAYMENT (Continued)

45-302

.2 Payment Conditions

.21 Except as specified below, payment shall only be made when the child resides in an eligible facility which is not the same home in which the parent(s) or relative from whom the child was removed makes his/ her home. (Continued)

.212 The infant supplement amount shall be determined pursuant to Section 11-~~404~~415. (Continued)

HANDBOOK BEGINS HERE

.6 Rate of Payment (Continued)

.62 For provisions pertaining to clothing allowance and funeral expense special needs for AFDC-FC, see Section 11-~~405~~420. (Continued)

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: Section 11056, Welfare and Institutions Code.